

# *MISSOURI NATIONAL GUARD*



*Human Resources  
Technician Supervisor's Reference Guide  
October 2015*

# A MESSAGE FROM THE HUMAN RESOURCES OFFICER

TO All Directors and Supervisors:

Supervisors play a critical role in the implementation of the human resources program for the National Guard. For example, supervisors are responsible for initiating necessary personnel actions and utilizing the workforce in the most efficient manner to accomplish the Department of Defense (DoD) mission. The Missouri National Guard Human Resources Office is pleased to publish the ***Supervisor's Human Resources Reference Guide*** to all directors and supervisors in the state to assist you in accomplishing this mission.

This Guide is designed to be a "ready reference" that provides supervisors with advice and basic guidance on issues relating to human resources management. Although the contents are not regulatory in nature, the guidance has been drafted based on Federal statutes and regulations, as well as DoD and National Guard Bureau policy. Our current Labor Management Agreement (LMA) must be consulted on matters relating to bargaining unit employees as well as this guide.

The content of this guide was developed in a logical sequence to assist you through the steps involved in "building" a competent workforce, followed by the steps in "managing" the workforce through career management, individual training and organizational development. Our goal is to ensure that our supervisors are well informed. I hope you will take time to familiarize yourself with this guide. Remember, we are all full partners in the efficient administration and management of our most valuable resource...our employees. The accomplishment of our mission is realized when we understand and support each other's needs and the vast diversity of our workforce. To this end, the ***Supervisor's Human Resources Reference Guide*** will assist you significantly. Employees First, Mission Always.

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**SECTION 1:**

**CLASSIFICATION**

**AND**

**POSITION MANAGEMENT**

# CLASSIFICATION AND POSITION MANAGEMENT

## Getting Started

### Purpose

The first step in “**building**” a quality workforce is to assess your overall knowledge of the organization or office in which you have supervisory responsibility.

### Supervisor’s Role

The supervisor is responsible for maintaining a working knowledge of the mission, organizational structure and basic functions of the work unit. In addition, the supervisor should periodically review the comprehensive organizational or strategic plan for the organization, specifically within the command, work unit and branch, before developing position descriptions and/or exercising position management. Significant changes should be coordinated through the Human Resources Office (HRO).

## Position Classification

### Definition

“The process of determining the appropriate pay plan, series and grade of a position based on its designated duties and responsibilities and consistent with prevailing laws, standards and guides.” A shorter version is “Classification is the process by which the pay plan, title, occupational series and grade are determined for a group of duties that constitute a position.”

### Purpose

To fulfill the organization’s mission, creating a new position or restructure current positions maybe necessary. The position description (PD) describes the principal duties, responsibilities and supervisory relationships of a position to provide information necessary, which will properly classify it. The title, series and grade are determined by comparing the duties and responsibilities with appropriate classification standards, i.e., Position Classification Standards for GS positions and Job Grading Standards for FWS positions.

Classification can and does affect pay. When classified, the cover sheet on a PD and the PD become the legal basis for setting the basic pay range of a position.

### Supervisor’s Role

Supervisor's role is to review position description to confirm major duties and responsibilities of the position and its organizational relationships are necessary to carry out Government functions. Supervisors are responsible for reviewing the Position Description (PD) to verify it is structured to duties and responsibilities performed prior to submitting an SF 52 (Request for Personnel Action), Nature of Action: Request to Fill or Reassignment.

In addition to being the basis for pay, the PD also provides a basis for establishing the Performance Plan used to evaluate performance and complete the individual’s appraisal.

If the supervisor does not agree with the duties in the PD, the supervisor may consider amending the PD to reflect changes. The state has the authority to amend a PD as long as the amendment does not affect the title, series, or grade of the parent position. If an amendment to a PD is required, the supervisor should ensure that:

- The deleted duties/responsibilities aren't dispersed to other individuals in the unit. By doing this, it may affect other individual PDs utilized within the unit.
- The duties/responsibilities changed/added are aligned closely with the position's current classification and that the time spent on performing the additional duties/responsibilities is regular and recurring and equates to approximately 25 or more of the total time spent in the job.

The supervisor is responsible for developing a PD, if one does not exist and coordinating with the NGB Functional Manager (FAM) prior to forwarding the completed PD to the HRO Classification Specialist to classify the position. You may need to assist the classification specialist by providing additional information about the duties so that he/she can accurately classify the PD.

**You must write or prepare a new PD when:**

- Creating a new position.
- Job performed is significantly different from the existing PD.

**You do not have to write a new PD when:**

- Recruiting, reassigning or promoting an employee to an accurately described vacant position that is already classified.
- Increasing staffing of positions authorized on the manning document that describes filled and classified (and the work is identical).
- A position is reassigned to another organizational element (without changes in duties, tasks or responsibilities) (NOTE: Supervisory positions will need to be reviewed).
- Additional duties assigned are not substantive enough to require a new position description.

**If you must prepare or write a PD:**

You should first see if a similar classified position exists. Review the PDs in the HRO position classification PD library or contact your Classification Specialist for assistance. If a similar PD exists and it adequately describes the duties and responsibilities of the position you need, use this PD; otherwise, use the PD as a model and modify it to your individual position needs and submit it to the HRO Classification Specialist for review and submission to NGB for approval.

A PD may take many forms, depending on the nature of the position and the types of duties. There are four different formats:

- Supervisory or Managerial (General Schedule).
- Factor Evaluation System (General Schedule).
- Narrative (General Schedule).
- Federal Wage System.

Contact your HRO Classification Specialist, if you are uncertain of which type of PD is necessary to write for the position you are creating.

**REMEMBER POSITIONS are classified not PEOPLE!**

## **Position Management**

### **Purpose**

Structures and positions should be organized in the most effective, efficient, and economical manner to achieve the mission and goals of the organization consistent with applicable laws, regulations and directives.

### **Supervisor's Role**

You are responsible for determining how work will be organized and assigned to individual jobs and groups of positions within your work unit.

**You evaluate the effectiveness of positions and organizational structure when:**

- You identify core processes for the organization.
- You measure the mission-oriented work performed by the unit and investigate improvements.
- You monitor human resource investments, i.e., the number, grade level, training costs and turnover rates of positions.
- You monitor overall output and quality of work.

**You practice position management when:**

- You streamline your organization to minimize the number of steps in a process or interfaces necessary for approval of documents or decisions.
- You weigh the need for a narrow or wide span of control, depending on the work completed in your organization.
- You minimize the number of management layers.
- You balance work among employees.
- You enlarge and enrich work assignments or alternatively, reduce the variety of duties in work assignments to maximize employee motivation.

**You increase productivity and employee motivation when:**

- You establish organizational design goals and practice sound position management.

# Position Reviews and Classification Appeals

## Purpose

When an employee is questioning their pay plan, title, series or grade, he/she may submit a request for review of their position to their supervisor. A position review request verifies/validates the level of work performed by the position not the employee. Employees are encouraged to request a position review prior to filing a classification appeal.

Employees also have a right to file a classification appeal. General Schedule employees may file an appeal with the Office of Personnel Management (OPM) or Field Advisory Service (FAS). Federal Wage System (FWS) employees must file an appeal to FAS prior to appealing to OPM.

## Supervisor's Role

Frequently, before requesting a position review or filing a classification appeal, the employee will discuss the position description content and classification with you. You are responsible for assigning the duties and responsibilities to positions and you should be able to discuss the position with the employee. You may request your HRO to assist you in this discussion. If you or the employee believes a position description should be re-evaluated, you may request a position review. The Classification Specialist will interview you and/or the employee to obtain information about the kind and difficulty of the employee's work. Upon completion of the review, if it is determined that a new PD is necessary, the Classification Specialist will ask you to sign the supervisor's certification of position need and statement of work accuracy.

## General Information:

- Position reviews are normally requested prior to filing a classification appeal to verify the work being performed by the position.
- Appeals to OPM or FAS must be routed through HRO for transmittal.
- General Schedule (GS) employees may appeal to either FAS or OPM.
- Federal Wage System (WG) employees must first appeal to FAS, before they have recourse to OPM.

## Employees may not appeal classification actions such as:

- The content or accuracy of the official PD.
- The accuracy of NGB/OPM classification standards.
- An agency's proposed classification decision.
- Classification of position to which an employee is not assigned.
- Positions detailed or temporary promotions.

## Frequently Asked Questions (FAQs)

**Q: What is a standard PD?**

**A:** A standard PD is a National Guard Bureau release description that describes duties and responsibilities performed in similar organizations (i.e., work units) throughout the ARNG/ANG National Guard.

**Q: Who develops the position classification standards used to classify positions?**

**A:** Classification standards are developed by the Office of Personnel Management (OPM); however, The National Guard Bureau, DOD, Dept of the Army (DA) and Dept of the Air Force (DAF) have developed supplemental guidance for specific work assignments.

**Q: What is the Factor Evaluation System (FES)?**

**A:** The FES is the method most often used to assign grades to non-supervisory positions under the General Schedule (GS). The FES includes nine factors common to most non-supervisory positions in GS occupations.

**Q: What is a “position review”?**

**A:** A position review is no more than a conversation or interview with the person in the job, the supervisor of the position or both, usually conducted at the work location. The purpose of the review is to gain as much information as possible about the position in order to verify details and resolve questions.

**Q: When can an employee file a classification appeal?**

**A:** An employee can file a classification appeal of their position of record at any time.

**Q: Does a classification appeal affect other employee appeal or grievance rights?**

**A:** The filing of a classification appeal does not affect any other rights or privileges the employee may have under other provisions of law or regulation.

For more information on classification, position management, position reviews or classification appeals, contact your HRO Human Resources Specialist (Classification).

# **SECTION 2:**

# **RECRUITMENT AND PLACEMENT**

# RECRUITMENT AND PLACEMENT

## *Effective Options for Filling Vacant Positions*

### Recruitment

#### Purpose

All dual status (DS) and non-dual status (NDS) Federal employees may move competitively or non-competitively within the National Guard from one Federal position to another through the Merit Promotion and Placement Program. This program provides a fair and systematic means of identifying, considering and selecting candidates for promotions and career opportunities based on merit principles.

Candidates from outside the Federal Government may compete for and be appointed to either a non-dual status (NDS) or dual status (DS) civil service position through external vacancy announcements in accordance with Merit Promotion and Placement procedures.

#### **Responsibilities – TAG/HRO/Supervisor (Selecting Officials)/Applicant**

**The Adjutant General is the appointing authority for the National Guard Technician Program and is the highest level of authority in the State concerning the overall application of this Merit Promotion and Placement Plan.**

The Human Resources Officer (HRO) is responsible to the Adjutant General in ensuring the requirements of this Merit Promotion and Placement Plan are properly administered. The HRO will:

- Develop, maintain, evaluate and revise the program as necessary.
- Assure compliance with the program.
- Provide training, guidance and assistance to selecting officials, managers and supervisors concerning their responsibilities under this plan.
- Assure candidates are properly evaluated and certified for placement.
- Maintain necessary records and reports.

#### **Selecting Officials, Managers and Supervisors will:**

- Be familiar with the objectives, principles and operations of the plan.
- When acting as selecting officials, assure final selection of applicants is made on the basis of merit and within the principles of this regulation.
- Encourage technicians under their supervision to participate in development opportunities and apply for positions for which qualified.
- Recommend changes to this plan to the HRO.
- Assure technicians under their supervision who are absent (military duty, service schools, etc.) are considered for positions for which they are qualified.
- Assist the Human Resources Office in evaluating applicants, when appropriate.
- Have a special responsibility for insuring violations do not occur.

### **Individual Technicians are responsible for:**

- Familiarizing themselves with the operation of the Merit Promotion and Placement Plan.
- Pursuing developmental opportunities in preparing to assume higher-level duties.
- Assuring application forms/resume contains accurate, complete and current information concerning qualifications and self-development activities.

### **Supervisor's Role**

Managers have flexibility in filling vacancies, but they must exercise that flexibility within budget constraints, laws and regulations designed to ensure all placement decisions are made based on merit. Regardless of how you choose to fill the job, you must follow merit-staffing rules established in regulations and any applicable labor agreements.

As a supervisor, you determine the type of positions you need to establish the best sources through which to locate quality candidates and the most appropriate methods for filling vacancies. In addition, you may assist in developing the job qualifications.

## **Types of National Guard Positions**

### **Dual Status (DS) Civil Service Positions**

Individuals placed in Dual Status positions must meet military membership and compatibility requirements. A military technician is required to be a member of the National Guard, be assigned to a military skill that is compatible with their full-time technician job and have a military assignment in the same unit by which employed (or a unit that is supported by the employing activity). The military requirement is intended to ensure that there is a highly skilled and trained cadre available when units are mobilized and deployed and to provide continuity of operation before, during and after mobilization.

### **Non-Dual Status (NDS) Civil Service Positions**

Individuals placed in Non-Dual Status positions are not required to maintain military membership. The U. S. Office of Personnel Management (OPM) has delegated to The Adjutant General the authority to announce, evaluate and employ applicants for all Title 32 non-dual status civil service positions.

## **Merit Promotion and Placement**

Merit promotion is the competitive mechanism used to select current or former Federal employees for promotion or for reassignment into positions with additional promotion potential.

Merit promotion, like other competitive procedures, is a systematic approach for recruitment and selection based on merit and treats applicants fairly and equitably.

The policy of the National Guard is to create a stable work force and provide maximum opportunity for employee advancement. Evaluation and selection will be made based on qualifications and merit without regard to race, color, religion, marital status, sex, age or national origin. However, due consideration must be given to military status and military physical requirements for the position concerned as a condition of employment for those positions requiring military membership.

## **Merit Promotion Requirements**

- Ensure adequate competition (opportunity to compete) for positions in the National Guard by recruiting adequate numbers of well-qualified candidates for consideration.
- Determine appropriate public notice areas and length of open period.
- Distribute application materials to applicants.
- Assess the validity of announced qualification questionnaire, rating criteria, etc.
- Rate and rank applications against minimum qualification standards.
- Identify qualified candidates.
- Issue referral and selection certificates.
- Notify applicants of eligibility for consideration.
- Review the results of the selection process for conformance with the laws and regulations.
- Ensure the maintenance of recruitment and placement records are consistent with OPM requirements.

## **Recruitment and Placement Actions**

During the course of employment as an Army or Air Technician, various personnel actions are required, either in response to a competitive selection or management action or at an individual's request. As the supervisor of the position involved, you must complete an SF-52, Request for Personnel Action, for each action. Forward the SF-52 through appropriate channels to arrive in the Human Resources Office with sufficient lead-time to permit accomplishment of the requested action prior to the requested effective date.

## **Appointments**

Appointments result in bringing new workers into the work place. Appointment actions can be permanent, indefinite or temporary and their duty work schedule can be full-time or part-time.

## **Temporary Appointments**

Temporary appointments are used to meet administrative needs such as excessive work requirements, special projects and backfilling a permanent technician who has been deployed or is on extended leave. These appointments have specified not-to-exceed dates or ending dates.

## **Indefinite Appointments**

Indefinite employment is an excepted appointment with an indefinite time limitation that should be used when the appointment is expected to extend beyond one year. Competitive procedures must be used when filling a position on an indefinite basis. A technician must be given a 30-day written notice upon separation.

## **Details**

A detail is the temporary assignment (salary continues to be the same) of an employee to a different position or set of unclassified duties for a specified period of time. Details can be made in increments of 120 days up to 1 year or more for any legitimate purpose (i.e., to handle unexpected workloads or specific projects, to fill in during another employee's absence, etc.). Details of more than 120 days to a higher graded position or to a position with known promotion potential, the position must be announced through merit promotion procedures. (Note: A technician on a detail is expected to return to his/her regular duties at the end of the assignment. The individual on a detail is considered to be permanently occupying his/her regular position.) Refer to local labor agreements and/or merit promotion policies for additional information.

## **Reassignments**

A reassignment is the change of an employee from one position to another without promotion or demotion. (Note: A reassignment may be mandatory or management directed if the employee non-concurs with the decision.)

## **Promotions**

A promotion is the movement of an employee to a position of higher-grade level than that to which presently assigned (if under the same pay system) or to a higher basic rate of pay (if under a different pay system). NOTE: If change is between GS to WG or WG to GS, the Human Resources Office will determine the appropriate nature of action.

## **Temporary Promotions**

Time-limited promotions are used to fill temporary positions, accomplish project work, fill positions temporarily pending reorganization or downsizing or meet other temporary needs for a specified period (not more than 5 years without NGB approval). Promotions of more than 120 days must be made under merit promotion procedures. Advance written notice of the conditions of the time-limited promotion must be provided to the employee. (Note: Normally, temporary promotions are not made unless the period is expected to last longer than 30 days. When a temporary promotion is for less than 30 days, a detail is more appropriate.)

## **Changes to Lower Grade, Level or Band**

Change to lower grade is a voluntary or involuntary movement of a current technician to a position at a lower grade (or rate of pay, if under a different pay system).

## **Key Staff Positions**

Key staff positions are dual-status and supervisory or managerial in nature. In recognition of the importance of these positions to the overall effectiveness of the Guard and the unique military qualifications, special placement procedures for the identification and selection of candidates may be established.

These positions are exempt from the normal Merit Promotion Plan competitive procedures because of their special importance to the overall effectiveness of the National Guard.

The Adjutant General has authority to non-competitively assign military technicians in order to accommodate either an "overarching military consideration" or a military assignment at the key staff level.

## Position Announcement and Application Procedures

The selecting official is the initiating and concluding step in the merit placement action. The selecting official is responsible for the selection process and may at any time choose to either cancel an announcement or not select from a list of candidates. A selecting official, who chooses to cancel an announcement, will be responsible for returning certificates received with an explanation of the reason for the cancellation to the HRO.

### Request for Filling Vacancy

When requesting that a position be filled, the supervisor will submit a SF-52, Request for Personnel Action, to the HRO. Required information on the SF-52 is:

- Position title, Position Description Control Number (PDCN), grade(s), organization and location.

Type of appointment (for those positions that can be filled by either dual status or non-dual status technicians).

- Military requirements (officer, warrant officer, enlisted) to include minimum or maximum military grade.
- Recommended area of consideration that is deemed most appropriate to ensure receipt of sufficient highly qualified candidates for advertised position.
- Recommended selective placement factors that are essential for satisfactory performance of the job, i.e., security clearances, particular certifications or education requirements.
- Medical standards/physical requirements and/or requirement for periodic medical evaluation when applicable.
- Reason for request of position vacancy or anticipated vacancy announcement (incumbent's name, pending retirement, termination, resignation or conversion to AGR status).
- Signature of first and second level supervisor is required.
- The position to be filled may be announced as all sources or limited to on board technicians. Announcements should be limited to on board technicians only when there is a good chance a sufficient number of qualified applicants can be achieved or when budget or manning limitations dictate.

### Vacancy Announcements

The vacancy announcement will contain the following information:

- Title, series, grade and salary range of the position.
- Type of appointment – dual status or non-dual status.
- Military requirements (officer, warrant officer, enlisted) and compatibility requirements for dual status positions.
- Organizational and geographical location of the position.
- Minimum qualification requirements.

- Summary of duties.
- Information regarding known promotion potential, if applicable.
- Special conditions of employment or developmental training, if applicable.
- Opening and closing dates and how to apply.
- Equal employment opportunity statement.
- Designated security clearance required.
- Medical standards/physical requirements and requirement for periodic medical evaluation when applicable.
- Selective placement factors if appropriate.
- Area(s) of consideration.

## **Posting of Announcements**

Vacancy announcements will normally be posted for 20 calendar days, but not less than 10 calendar days. To ensure that all interested persons are aware of the vacancy, announcements will be posted on the HRO web page and USAJOBS web site.

## **Application Procedures**

The qualification questionnaire, resume and supporting documents are the basic documents by which the individual's qualifications for the position are determined. These documents must reflect the applicant's current and past employment data as well as military duty assignments, qualifications and training relevant to the requirements as outlined in the vacancy announcement. Complete and accurate data is essential to ensure fair evaluation of candidates.

The application process consists of completing and submitting a KSA-based qualification questionnaire, completing and submitting a resume or other written application, an AGMO Form 335-1-R, and gathering and submitting "other" supporting documents. An example of other supporting documents would be college transcripts.

## **Evaluating Experience**

The Qualification Questionnaire completed by the applicant will be used in the ranking of applicants. The resume/application and any attached documents will be used to verify the ranking submitted by the applicant's responses to the Qualification Questionnaire. Experience will be evaluated in terms of type and quality in relation to the requirements of the position. Length of service or experience will only be used when there is a clear relationship with quality of performance.

## **Certificate of Eligibles**

Candidates arrived at through the evaluation process will be listed on the Certificate of Eligibles and referred to the selecting official.

# Referral and Selection Procedures

## Referral of Candidates

Following the determination of basic eligibility and evaluation of candidates, the HRO will:

- Certify qualified candidates to the selecting official. After a quality review of the candidate's information is accomplished, the candidates will be listed based on their numerical score.
- Notify those individuals who were rated as basically qualified, but not submitted for consideration.
- Notify those individuals not meeting minimum qualifications.
- Ensure that National Guard managers and/or supervisors actively support Equal Employment Opportunity (EEO) and Affirmative Employment programs, plans and goals.

## Action by the Selecting Official

The selecting official is entitled to select or non-select any candidate referred to him/her. Upon receipt of the Certificate of Eligibles, the selecting official will:

- Interview Candidates - In an effort to select the best-qualified applicant, every attempt will be made to conduct personal interviews. If not possible, telephone interviews will be conducted. If one candidate is interviewed, every reasonable effort must be made to interview all those on the Certificate of Eligibles so that fair consideration is given to all referred candidates. Written documentation is required for any candidates who could not be contacted for an interview.
- Actively support EEO and Affirmative Employment programs, plans and goals. A selecting official must become familiar with their work force composition, know what their work force should be, become familiar with organizational Affirmative Employment plans and goals and establish his or her own goals to help the organization achieve its objectives. This is accomplished by selecting qualified minorities, women and disabled workers for employment, promotion, favorable work assignments and training opportunities whenever feasible.
- Make a Selection - If all candidates are rejected, the selecting official will return the certificate to the HRO with full written justification as to why a selection was not made. Written justification must

also be submitted when a selection is made at a trainee level when other candidates are listed at higher grades on the Certificate of Eligibles.

- **Supervisors must inform candidates that appointments are confirmed only after approval of the HRO.** Supervisors will coordinate with the HRO to arrange a date and time for new employee orientation, which must be held on the first Tuesday after a pay period begins and will provide transportation and escort when necessary.
- Support documents must be completed by the new or current employee and returned as an entire selection package, i.e., completed Certificate of Eligibles and all support documents. All documentation should be completed and returned to NGMO-HRD-S not later than 10 workdays prior to the desired effective date of action. The employee's personnel action cannot be acted upon until the selection package is returned.

NOTE: Failure to provide this documentation may delay the effective appointment date. Retroactive issue of Standard Form 50 (SF-50), Personnel Action, for appointment is forbidden by Federal law; therefore, if an individual is permitted to begin work prior to HRO issuance of the SF-50, he/she cannot be paid for the time worked prior to the effective date of the SF-50.

- Complete and sign the Certificate of Eligibles in accordance with instructions on the document and return with all attachments to the HRO. All incomplete documents will be returned to the selecting official for completion/correction.

## Action by the HRO

A representative of the HRO will provide written notification to all candidates, assist in the negotiation of a release date of on board technicians, if requested and prepare promotion files.

## Pay Setting Fundamentals

### Purpose

Generally, pay setting is determined in accordance with the rules applicable to the pay schedule in which the position is classified (i.e., GS or FWS).

### General Schedule (GS)

This pay schedule covers the largest portion of Federal employees. It is based on equal pay for equal work and on comparability to salaries paid nationwide by the private sector for comparable work. The General Schedule comprises of 15 grade levels, each with 10 steps.

### Federal Wage System (FWS – WG/WS/WL)

This pay schedule covers those positions engaged in trade and craftwork (i.e., engine mechanics, aircraft mechanics, etc.). The rate of pay is based on the prevailing rates being paid locally by the private sector as determined by wage surveys.

### Supervisor's Role

A supervisor has flexibilities in pay setting, such as Above the Minimum Rate, Recruitment Incentives and Retention Incentives. Applicability/requirements for these options may be discussed with HRO Staffing.

### Pay Options

- **Promotion** - When a GS employee is promoted, he/she is entitled to the equivalent of a two-step increase in pay; a FWS employee is entitled to a 4 percent increase (no locality pay).
- **Highest Previous Rate (HPR)** - An employee's pay may be set, for example, at a rate equivalent to the highest rate that was earned in the two years immediately preceding prior Federal employment or at a rate based on a temporary promotion of more than one year. The employee's performance must have been satisfactory during previous Federal employment. The applicability of HPR should be discussed with your HRO, as it is a case-by-case determination.
- **Within-Grade Increase ("Reg WRI")** - A GS employee is entitled to a "Reg WRI" (i.e., equivalent to a one-step increase) after the established waiting period if the employee's supervisor certifies to an acceptable level of competence. A Federal Wage System (i.e., WG) employee also receives a "Reg WRI," but the waiting period is different from for GS employees. These waiting periods and other criteria for a "Reg WRI" are illustrated below.

Within-Grade Increase Applicability Chart			
GS		WG	
Steps 2/3/4	52 Weeks Each	Step 2	26 Weeks
Steps 5/6/7	104 Weeks Each	Step 3	78 Weeks
Steps 8/9/10	156 Weeks Each	Step 4	104 Weeks
		Step 5	104 Weeks

- **Premium Pay** - This is compensation paid to an employee for work performed during the normal work schedule when required. Premium pay would include holiday and night differential. A supervisor must ensure this work is planned and performed only when necessary. Criteria for the various types of premium pay differ and must be discussed with your HRO Employee Relations Specialist (ERS).

## Special Salary Rates

Employees in certain occupations that have documented recruitment and retention problems may be authorized a special salary rate. A special salary rate may be for a particular grade level(s) of an occupation and/or a particular geographic area. Depending on the coverage of the special salary rate, this rate will be above the GS rates of compensation. In the National Guard, special salary rates are authorized for occupations such as information technology specialist, engineers and pilots.

## Differential Pay Rates

**Night Differential Pay.** Night differential rates are paid to both FWS and GS technicians.

- FWS technicians are paid a 7½ percent differential when the majority of the hours of the scheduled shift are between 1500 and 2400 hours. A 10 percent differential is paid when the majority of the hours of the scheduled shift are between 2300 and 0800 hours. The differential is paid for all hours of the shift.
- GS technicians are paid night differential of 10 percent for all hours scheduled after 1800 and before 0600 hours. The differential is paid only for the hours worked in this time span and not for the entire shift.

**Environmental Differential Pay.** FWS technicians exposed to various degrees of hazard, physical hardship or other unusual working conditions in the performance of their duties may be authorized Environmental Differential Pay (EDP) in accordance with established regulations.

Requests for determination of eligibility for EDP are submitted to the HRO Classification Specialist.

**Hazardous Duty Pay.** GS employees may be paid Hazardous Duty Pay (HDP) only for a duty included in official listings of irregular or intermittent hazardous duties involving physical hardship. A differential may not be paid to a technician for duty listed when the duty has been credited in the classification of the technician's position. Requests for hazardous duty pay are submitted through supervisory channels for committee review and final approval by the HRO.

# Recruitment Tools and Pay Incentives

## Purpose

Recruitment tools and pay incentives are used to attract a variety of applicants and hopefully the best applicant for the position, especially for shortage categories and hard-to-fill positions.

## Supervisor's Role

The supervisor should use knowledge of the position and previous recruiting history to determine if any of these tools and pay incentives would be useful in attracting the right applicant. Also, the supervisor is responsible for preparing the appropriate documentation justifying the request.

## Appointment at Above the Minimum Rate

Generally, new civil service employees (or a person reinstated to the competitive civil service after a "break in service" of 90 days or more) are appointed at the first step of the General Schedule grade range. However, when a person possesses clearly superior qualifications or his/her skills match a special need of the Agency, an appointment may be made above this first step.

Officials must give due consideration to the following circumstances when preparing justifications for such requests:

- Recruitment: The nature and extent of recruitment to fill the non-dual or dual status service position.
- Availability of Candidates: The availability of highly qualified candidates.
- Existing Compensation: The current salary and benefits of the desired candidate.
- Competing Offers: Any bona fide and confirmed competing offers of employment.
- Recruitment Incentive: The possibility of using a recruitment incentive in lieu of an appointment at an above the minimum rate.

***\*Appointments made at above the minimum rate must be approved by HRO prior to the effective date of the appointment.***

## Recruitment Incentive

When recruiting for positions that are difficult to fill, selecting officials may recommend through the HRO the use of a recruitment incentive. Recruitment incentives are a one-time, lump-sum payment of up to 25 percent of the candidate's basic pay (before other pay such as locality pay is added).

**A recruitment incentive** may be paid in lieu of or in conjunction with, an appointment above the minimum rate. A recruitment bonus may be paid to a new Federal employee or after a break in service of at least 90 days. The following factors must be considered when determining whether or not to approve a recruitment incentive:

- Qualifications: Any special qualifications needed.
- Recruitment History: Success of recent efforts to recruit for similar positions.
- Turnover: Recent turnover in similar positions.

- Labor Market: Other labor market factors that affect the ability to recruit for the position.

Appointments of one year or more require a minimum one-year service agreement. Recruitment incentives are set at the minimum percentage required to obtain the services of a candidate. The HRO retains the authority to approve recruitment incentives.

## **Relocation Incentive**

A relocation incentive of up to 25 percent of a current employee's basic pay (before other pay such as locality pay is added) may be paid as an inducement to ensure his/her acceptance of a position in a different commuting area. Relocation incentives are only appropriate when it is determined that the agency would have difficulty filling the position if a relocation incentive were not offered.

Relocation incentives are normally only offered in conjunction with a permanent change of duty station. However, in rare instances, they may be offered to fill a temporary assignment. In both cases, a service agreement is required. A minimum one-year service agreement is required for a permanent relocation and a minimum six-month service agreement is required for an assignment of limited duration.

The payment of a relocation incentive must be justified and fully documented. The same considerations apply to a relocation incentive that apply to a recruitment incentive (see previous paragraph). Relocation incentives are only payable after an employee has relocated and established a residence. Also, the approval process is identical to that used in recruitment incentives.

## **Retention Incentive**

In unique situations, a current Federal employee may be paid a retention incentive of up to 25 percent of his/her basic pay (before other pay such as locality pay is added). Such a payment may be authorized when it is determined that a current employee possesses unusually high or unique qualifications or there exists within the Agency a special need for the employee's service and it is believed that the employee would leave the Federal service if a retention incentive were not provided.

Before a retention incentive may be authorized, however, it must also be determined the employee's departure would affect the Agency's ability to carry out an activity or perform a function that is essential to its mission.

A retention incentive may not be initiated during a period of employment covered by a service agreement required in conjunction with either a recruitment or relocation incentive.

Before a retention incentive may be authorized, consideration must be given to the success of recent recruitment efforts for similar positions, the availability of a replacement employee, the employee's specialized skills and/or role in the program and the value of any competing employment offer.

A retention incentive is calculated as a percentage of an employee's basic pay and is paid at an hourly rate.

The approval process for a retention incentive is the same as described for recruitment incentives. Retention incentive must be reviewed, justified and approved annually.

# Interviewing Techniques and Principles

## Purpose

The interview process is a continuation of the examining process. To hire the best person for any job, it is recommended candidates be interviewed in accordance with TPR 335. A face-to-face interview is preferred; however, under certain circumstances, a telephone interview may be used. The interview normally takes place after the supervisor has been given a list of best-qualified candidates for a vacancy.

## Supervisor's Role

The supervisor must determine the most appropriate qualified person to fill the vacancy by conducting an interview to confirm and assess the person's knowledge/skills/abilities related to the vacancy. The Selecting Official makes a final selection and forwards to the HRO Staffing Specialist. The Staffing Specialist will review the selection and advise the Selecting Official to make the formal offer of employment to the selectee.

## Outline for Planning and Conducting a Successful Interview

- Study the job to be filled.
  - Job description.
  - Technical skills.
  - Physical requirements.
- Study application material from HRO.
  - Frequency of job changes.
  - Order of jobs held.
  - Reasons for leaving past jobs.
- Plan the course of the interview.
  - Topics to be covered.
    - Review probable order and importance.
    - Prepare questions that you may use in determining applicant's qualifications.
    - Questions should be specific, verifiable, factual, job-related and open-ended
    - Avoid hypothetical questions (unless used to access analytical abilities, etc.).
    - Estimate length of interview. This will vary depending on:
      - Type of position you are filling.
      - Number of applicants to be interviewed.
      - Qualifications of applicant.
      - Importance and complexity of job.
- The setting
  - Should be pleasant and comfortable.
  - Should be conducted in private (if at all possible).
  - Should have no interruptions (i.e., personal or telephone).
  - Do not make candidate wait or appear rushed for time.
  - Allow a short time period to advise candidate about the job and allow questions.

- Conduct the interview.
- Take notes, but advise candidate you will do so.
- Advise candidate when you expect to make a selection.
- Review interview notes and perform reference checks.
- Make selection (do not notify candidate) and contact HRO Staffing.

<b>Legal vs. Illegal Questions When Conducting Interviews</b>		
<b>The following is a quick reference detailing legal and potentially discriminating interview questions</b>		
<b>Topic</b>	<b>Legal Questions</b>	<b>Discriminatory Questions</b>
<b>Family Status</b>	Do you have any responsibilities that conflict with the job attendance or travel requirements? (Must be asked of all applicants).	Are you married? What is your spouse's name? What is your maiden name? Do you have any children? Are you pregnant? What are your child-care arrangements?
<b>Race</b>	None.	What is your race?
<b>Religion</b>	None. (You may inquire about availability for weekend work if required for the position for which you are interviewing.)	What is your religion? Which church do you attend? What are your religious holidays?
<b>Residence</b>	What is your address?	Do you own or rent your home? Who resides with you?
<b>Sex</b>	None.	Are you male or female?
<b>Age</b>	If hired, can you offer proof that you are at least 18 years of age?	How old are you? What is your birth date?
<b>Arrests or Convictions of Crime</b>	Have you ever been convicted of a crime? Felony or misdemeanor? Motor Vehicle Offences (do you have a driver's license – if required)?	Have you ever been arrested?
<b>Citizenship or Nationality</b>	Can you show proof of your eligibility to work in the U.S.? Are you fluent in any languages other than English? (You may ask the second question only as it relates to the job being sought.)	Where were you born? Are you a U.S. citizen? (HRO in processing will cover citizenship issues.)
<b>Disability</b>	Are you able to perform the essential functions of this job? (Most National Guard jobs require you to be deployable world-wide – disabilities are disqualifying militarily in most cases)	Are you disabled? What is the nature or severity of your disability?

## Interviewing Pitfalls

**Allowing Interruptions** - If possible, avoid interruptions. Failure to do so will generally tell the candidate that he or she is not as important as “rush telephone calls” or intermittent “report signing” that may interfere with the interview.

**Not Treating Candidates as Individuals** - When interviewing a number of candidates for a given job, a natural tendency is to begin treating everyone as if they were the same. No two people have ever been found to be alike -- each is distinctly unique in many ways.

**Not Providing a Good First Impression** - Someone once said: “No one ever found a successful way of getting a second chance at making a good first impression.” Your promptness will indicate the importance of being on time to your candidates. Your being late will indicate things are hectic or that being late for work might be all right. Try to provide a neat, quiet and orderly environment for the interview. Be friendly and warm. Provide a good first impression of your organization to each candidate you interview.

**Not Listening Properly** - Avoid the temptation to frequently introduce your own thoughts during the interview. The applicant is not there to hear about your experiences. Remember, you have a limited period of time to learn as much as you can about each candidate and you won't get this information if you are doing all of the talking.

**Using Non Job-related Questions** - Not only can asking these questions be unlawful; it also wastes time and will not provide you with much in the way of useful, selection/decision information. You wouldn't, for example, ask about where a person was born, for generally doing so is both unlawful (potentially discriminatory because it could be a question probing ethnic origin) and in most cases, is irrelevant to your job requirements.

**Arguing** - An effective employment interview is not a contest. It's an important job. The interviewer who allows his or her own pride to get in the way of getting the relevant information will have to unlearn this trait.

**Making Promises You Can't Keep** - If you know what the exact salary will be or what benefits your organization offers, you might want to discuss these. Never make a promise you or your organization can't keep. For example, if you can't ensure definite “advancement” will occur within a few years after hire for the job in question, don't say that “advancement will probably be involved.” The candidate is very impressionable at this point and will remember such promises, however vaguely stated.

**Lack of Privacy and Confidentiality** - A closed door, a private or quiet environment, your own sensitivity... will all go a long way to assuring the candidate you will treat information he or she shares with you confidentially.

**Insufficient Time for Each Interview** - Don't try to squeeze too many interviews into a limited period of time. The time you allot should be governed primarily by the complexity of the job. From forty-five minutes to an hour is considered about right by many managers for an average job of average complexity.

**Taking Notes** - Some find it helpful to take brief notes during an interview because notes are valuable in reconstructing information after the interview. Avoid the temptation to appear as if you are taking exceptionally careful notes when a candidate is discussing something sensitive or personal. Doing so can discourage the candidate from opening up during the remainder of the interview. If something sensitive emerges, drop the pencil and listen with interest and sincerity. If it's important, you'll recall it after the interview.

**Limiting You Only to Questions** - Use comments too. A well-placed comment can “echo” or appear to provide support for something a candidate has just said, thus encouraging him or her to further amplify on that or other issues in the interview. Using only questions to get needed information will give candidates the impression they are under “interrogation.”

**Improper Language Level** - This is a judgmental area, at best, but in general; try to pitch your language, your questions and your comments at the level of the candidate and the appropriate level of the job being filled. Don't speak down; don't speak up. Be natural.

**Impatience** - Sometimes a candidate won't go immediately in the direction you want. Be patient. Through proper use of open-ended questions, silence and listening on your part, the interviewee will come around. Your impatience will inevitably lead to the applicant's anxiety and tenseness, as well as your own failure to get the relevant information.

**“Gut” Feelings** - Our “gut” feelings cause us to feel generally good or generally bad about a candidate, usually because of one thing we've observed early in the interview. It can be damaging if we don't give the candidate a chance to change that impression. Strive to keep from making judgments too quickly, especially in areas where we generally have strong, personal biases, such as with a person's appearance.

## **Interview Guide – Additional National Guard Approaches**

### **Part I – Interviewing Techniques**

Interviewers must remember that the primary goals of the interview are to obtain quality information concerning the candidate and provide factual information regarding the National Guard and the technician position for which the candidate is being interviewed

**Initial Contact** - When you arrange an interview time with the candidate, be sure to advise him or her how long the process is likely to take. Ensure the candidate understands the date, time and location of the interview.

**The Interview** - When properly conducted, the interview can be an effective vehicle to evaluate the candidate's understanding of the elements of the position, motivation to complete training, interpersonal skills and clarity of speech. Perhaps even more important, the interview provides the candidate an opportunity to gain specific, detailed information regarding the position in order to make an informed career decision.

**Note Taking** - Advise the candidate at the beginning of the interview you will be taking notes. Avoid taking lengthy notes during the interview since the candidate might think you are not listening and may stop talking. The candidate may also become suspicious of what you are writing and become evasive. However, it is important to document the interview thoroughly because the information may be required to provide a basis for the selection or non-selection. You may find it convenient to take a few moments after completing the interview to make summary notes.

**Standard Questions** - Questions should be designed to solicit information to assist you in evaluating the candidate. All questions must be job related. If a checklist questionnaire is used, you should not simply go over the list of suggested questions, but use them as a starting point for additional questions, depending on the candidate's responses. It is very important that the candidate be fully aware of the National Guard policies and how they might affect his or her personal life. You should talk to all candidates about the impact of National Guard requirements for travel, mobility, training or shift work that may have an impact on their lives and families so that they can make informed decisions concerning National Guard technician careers. However, there are some questions that are inappropriate to ask anyone. Asking a candidate personal questions about family, marriage, religion, politics or his/her personal life is an invasion of privacy and unnecessary to the job interview. Notes on appearance or other non job-related criteria are inappropriate. Don't rush - a hurried interview only curtails communication.

**Listen Attentively** - Active listening will encourage the candidate to talk more freely. Don't listen without really hearing, no matter how many interviews you have been through. As one of the candidate's first impressions of National Guard management, you may be the lasting impression as well.

**Don't Do All the Talking** - Certainly, you want to impart information about the job, but don't advise the candidate of your views, opinions and experiences. You need to gather facts and information about the candidate, as well as to tell him/her about the job.

**Don't Anticipate or Interrupt** - Beware of breaking off a candidate's remarks or filling in the ends of his/her sentences. You may get the wrong idea of what the candidate really meant to say.

**Consider How You are Asking Questions** - Use open-ended and appraisal-type questions; avoid closed-end questions which will result in short answers and burden you with the task of constantly asking questions while the candidate does little or no talking.

**Don't be Adversarial or Antagonistic** - An interview should not be an inquisition or a cross-examination. Questions should be direct and straightforward. If your technique is abrupt or challenging, the candidate will withdraw or become defensive.

**Be Considerate of the Candidate as a Human Being** - Remember that you are playing a role in the candidate's life, which may very well affect him or her for many years to come.

**Closing the Interview** - The final step in the interview process is closing. Summarize the interview with the candidate and supply any missing information. It is important the candidate understands what kind of job he or she is being considered for and what kind of environment he or she may be working in. The candidate should be given a final opportunity to ask questions at this time. Close the interview by thanking the candidate, giving him or her the office address and telephone number, summarizing what will happen next and giving an approximate time-frame in which a decision will be made.

## **PART II – Interview Criteria**

Upon receipt of a Certificate of Eligibles, interview candidates for selection consideration. The selecting official or recommending supervisor will develop and utilize an established set of interview questions to be used in interviewing referred candidates. By using the Interview Rating Form, the selecting official or the recommending supervisor should develop questions and rate candidates using the qualification questionnaire shown on the technician vacancy announcement. Questions should be consistent and identical for each candidate for a position.

- Step 1: A prior set of interview questions should be developed for the KSAs being assessed in the interview. The questions asked in the selection interview must be carefully constructed to preclude questions and responses that do not provide information related to the ability to perform the work of the position.
- Step 2: Using an interview worksheet the selecting official or supervisor will rate each candidate on their responses.
- Step 3: The interview should be considered in combination with other evaluation methods to identify the candidate best qualified based on all the evaluation criteria.
- Step 4: Upon completion, interview worksheets may be forwarded with the selection package to the HRO. These worksheets will become source documents to support the selection or non-selection.

Every effort should be made to conduct each interview for a particular position with consistency. Each candidate for the advertised position should be interviewed using identical methods and questions.

# Reference Checks

## Purpose

A key component in the employee selection process is conducting reference inquiries or “checks.” Reference checks may be used to verify applicant’s qualifications, skills and suitability for the position.

## Supervisor’s Role

As a supervisor, you should be sure that appropriate reference checks are conducted before you recommend selection of a candidate. Most selecting supervisors prefer to personally conduct the checks. It is a good idea to use the business references, i.e., past supervisors rather than the candidate’s personal references. You should check with at least two previous employers.

**When conducting reference checks** you should contact the applicant’s current (if applicant has given permission for contact) and former supervisors that are listed on the application form. The most expedient way of conducting a reference check is by telephone, this also allows you to follow up on any questions that may arise. If necessary, you can mail the form out and request that it be returned to you. The following are some key points to keep in mind when conducting reference checks.

- Be consistent. Ask the same questions to each person you contact.
- Avoid any questions that may appear culturally or racially motivated. Focus only on the requirements of the job and the applicant’s performance in previous jobs.
- Avoid any questions about the applicant’s personal life. Do not ask about marital status, children, hobbies, financial status, etc.

# **SECTION 3:**

# **COMPENSATION AND BENEFITS**

# COMPENSATION AND BENEFITS

## Compensation Management

### Purpose

Compensation management is a key aspect of human resources management. Knowledge of the basic rules and flexibilities will assist in the recruitment and retention of personnel.

### Supervisor's Role

A supervisor may recommend to the HRO compensation levels using the various flexibilities allowed by statute and regulation.

## Employee Benefits

### Purpose

To provide assistance to your employees, it is important to understand the various benefits offered to employees based on the type of appointment held. This section guides you regarding the different benefits available to employees.

### Supervisor's Role

The availability of employee benefits is very important in both the recruitment and retention of highly qualified employees. As a supervisor you should be aware of the various benefits offered to employees, be able to answer questions during interviews regarding the benefits available and direct new employees to the Technician Handbook and HRO/ERS regarding benefit questions.

## Health and Life Insurance

### Purpose

In general, all permanent employees and employees whose appointments exceed one year are eligible for health and life insurance benefits. Both programs provide group rates and the Agency contributes a certain portion of the premium.

### Supervisor's Role

As a supervisor you should be aware the Federal Government offers health and life insurance benefits and direct any specific questions to the Human Resources Office (HRO).

### Health Plans

The **Federal Employees Health Benefits Program (FEHB)** is one of the most valuable benefits of Federal employment. Many health plans are available for you to choose from. The rates of all plans have been determined by OPM, not the States and are not negotiable. Coverage is **not** automatic; therefore, you must select a health plan in order to be covered.

## Types of Plans

Below are examples of the types of plans offered (not all-inclusive):

**Fee-for-Service (FFS) Plans (non-PPO)** - A traditional type of insurance in which the health plan will either pay the medical provider directly or reimburse you after you have filed an insurance claim for each covered medical expense. When you need medical attention, you visit the doctor or hospital of your choice. This approach may be more expensive for you and require extra documentation.

**Fee-for-Service (FFS) Plans with a Preferred Provider Organization (PPO)** - A FFS option that allows you to see medical providers who reduce their charges to the plan; you pay less money out-of-pocket when you use a PPO provider. When you visit a PPO, you usually won't have to file claims or paperwork. However, going to a PPO hospital does not guarantee PPO benefits for all services received within that hospital. For instance, lab work and radiology services from independent practitioners within the hospital may not be covered by the PPO agreement. Most networks are quite wide, but they may not have all the doctors or hospitals you want. This approach usually will save you money. Generally enrolling in a FFS plan does not guarantee a PPO will be available in your area. PPOs have a stronger presence in some regions than others and *in areas where there are regional PPOs, the non-PPO benefit is the standard benefit. In "PPO-only" options, you must use PPO providers to obtain benefits.*

**Health Maintenance Organization (HMO)** - A health plan that provides care through a network of physicians and hospitals in particular geographic or service areas. HMOs coordinate the health care service you receive and free you from completing insurance claims or being billed for covered services. Your eligibility to enroll in an HMO is determined by where you live or, for some plans, where you work. Some HMOs are affiliated with or have arrangements with HMOs in other service areas for non-emergency care if you travel or are away from home for extended periods. Plans that offer reciprocity discuss it in their brochure. HMOs limit your out-of-pocket costs to the relatively low amounts shown in the benefit brochures.

The HMO provides a comprehensive set of services - as long as you use the doctors and hospitals affiliated with the HMO. HMOs charge a co-payment for primary physician and specialist visits and generally, no deductible or coinsurance for in hospital care.

Most HMOs ask you to choose a doctor or medical group to be your primary care physician (PCP). Your PCP provides your general medical care. In many HMOs, you must obtain authorization or a "referral" from your PCP to see other providers. The referral is a recommendation by your physician for you to be evaluated and/or treated by a different physician or medical professional. The referral ensures you see the right provider for the care most appropriate to your condition.

Care received from a provider not in the plan's network is not covered unless it's emergency care or the plan has a reciprocity arrangement.

**HMO Plans Offering a Point of Service (POS) Product** - In an HMO, the POS product lets you use providers who are not part of the HMO network. However, you pay more for using these non-network providers. You usually pay higher deductibles and coinsurances than you pay with a plan provider. You will also need to file a claim for reimbursement, like in a FFS plan. The HMO plan wants you to use its network of providers, but recognizes that sometimes enrollees want to choose their own provider. Some plans are Point Of Service (POS) plans and have features similar to both FFS plans and HMOs.

**Consumer-Driven Plans** - Describes a wide range of approaches to provide you with more incentive to control the cost of either your health benefits or health care. You have greater freedom in spending health care dollars up to a designated amount, and you receive full coverage for in-network preventive care. In return, you assume significantly higher cost sharing expenses after you have used up the designated amount. The catastrophic limit is usually higher than those common in other plans. Contact your HRO for additional questions regarding physicians, specialists and hospitals with which your health plan contracts.

## Leave Without Pay (LWOP)

Affects employee benefits in the following manner:

- Employees covered under life insurance can be on LWOP for up to one year without being liable for the premiums.
- Employees covered under health insurance are liable for their premiums and are responsible for notifying the HRO of how they plan to pay their premiums while on LWOP. They can choose to pay their premiums while they are on LWOP or in a lump sum, or on a graduated scale through payroll deduction when they return to duty.

## Flexible Spending Accounts (FASFEDS)

### Purpose

Flexible Spending Accounts are tax-qualified programs based on the guidelines in sections 105, 125 and 129 of the Internal Revenue Code. There are three types of qualified plans under FSA: Health Care and Dependent Care.

- **Health Care FSA (HCFSA)**, through which you may use pre-tax allotments to pay for certain health care expenses that are not reimbursed by FEHB or any other source and not claimed on your income tax return
- **Dependent Care FSA (DCFSA)**, through which you may use pre-tax allotments to pay for eligible dependent care expenses.
- **Limited Expense Health Care FSA (LEX HCFSA)**, through which you may use pre-tax allotments to pay for eligible dental and vision expenses.

All employee contributions to FSAs are made from pre-tax earnings, thereby increasing disposable income. There are no government contributions to the program.

### Supervisor's Role

As a supervisor you should be aware that the Federal Government offers FSA benefits and inform employees that they can reduce their taxes while paying for services they have to allocate expenses toward anyway. Inform employees that FSAs allow employees to set money aside for eligible expenses before the agency payroll deducts taxes from the paycheck. Additional questions of a technical nature should be addressed directly to HRO.

## Long-Term Care Insurance

### Purpose

Long Term Care (LTC) Insurance provides an important benefit that can help pay long-term care expenses you may incur in the future. Long-term care insurance is available for Federal employees and their parents, parents-in-law, stepparents, spouses and adult children. In general, long-term care services are necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services and maintenance and personal care services. Long-term care services are required by a chronically ill individual and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

## **Supervisor's Role**

As a supervisor you should be aware of and inform employees that LTC insurance provided under the Federal program provides reimbursement for cost of care. This reimbursement is provided when there is an inability to perform at least two activities of daily living for an expected period of at least 90 days or when there is a constant need for supervision due to a severe cognitive impairment. Insurers of the Federal program are either John Hancock Life Insurance Company or Metropolitan Life Insurance Company. The Federal program will provide reimbursement based on the benefit portions the insured is approved for. Additional questions of a technical nature should be addressed directly to HRO.

## **Retirement**

### **Purpose**

In general, all permanent employees and employees whose appointments exceed one year are eligible for retirement coverage. The Federal retirement programs provide for retirement, disability retirement and survivor benefits. LWOP could affect these benefits.

### **Supervisor's Role**

The importance of a good retirement system cannot be overstated. An awareness of the retirement programs can be used by the supervisor in both recruitment and retention of highly qualified employees. When questions regarding retirement benefits arise, employees/applicants should be referred to the Technician Handbook and HRO/ERS for information.

## **Employee Separations**

### **Purpose**

When an employee separates from the National Guard, a Personnel Action (SF 52) request must be submitted to HRO. If the employee is resigning, he/she should submit a letter of resignation to accompany the personnel action or fill in the reverse side of the SF-52. When an employee transfers to another Agency, a personnel action must also be submitted to HRO in order to terminate the employee.

***If the SF 52 is not submitted on time to HRO, there may be a delay in the employee receiving their lump sum payment for leave and forms necessary to obtain/continue their benefits.***

When technicians are discharged from the National Guard and are then terminated from their technician position due to loss of military membership, the HRO will determine if they are eligible to retire. If not, the technician may potentially be eligible for severance pay and must be mandatorily enrolled in the DoD Priority Placement Program (PPP). On the other hand, if the technician is eligible to retire, enrollment in the PPP is optional. Technical questions should be directed to HRO.

### **Supervisor's Role**

Supervisors should ensure SF 52 is completed and forwarded to HR. Refer all employees who are leaving the Agency for any reason to the HRO Employee Relations Section to complete any necessary clearance documentation. This should be completed at least two weeks prior to separation. Questions regarding benefits should be referred to HRO/ERS.

Health and life insurance coverage terminates on the last day of the pay period in which an employee separates or the first day in non-pay status when terminated because of entering military duty. The employee is then entitled to a 31 day free extension of coverage during which time they can convert to an individual policy. Employees may apply for a refund of their retirement contributions after they have been separated for 31 days. There are other options available to employees regarding their retirement depending on the years of service and type of retirement coverage. A separation package is provided to the employee by HRO/ERS after they are notified of the separation.

## **Benefits for Temporary Employees**

### **Purpose**

Temporary appointments are usually made for one year or less. Temporary employees will accrue annual and sick leave but cannot use this leave until completion of 90 calendar days. Temporary employees are entitled to health benefits if appointment is for 90 days or more.

### **Supervisor's Role**

Supervisors must be aware of any benefit options (or lack thereof) available to temporary employees. Refer any questions to HRO/ERS for clarification.

## **Performance Management Systems**

### **Purpose**

Performance management systems are used as tools to define expected performance and to evaluate and appraise employee and organizational performance. They are also used to make decisions concerning training, within-grade increases, promotions and other performance-related actions.

### **Supervisor's Role**

You have several DOD and NGB mandated performance management responsibilities for employees whom you directly supervise. Reference NGB TPR 430. You should immediately work with employees to develop, implement and update performance plans. Performance plans will be documented by utilizing the Performance Appraisal Application (PAA) tools. Monitor employee performance; conduct at least one mandated interim review and counseling on achievements, progress and concerns. Annual performance appraisal will be documented on the automated NGB Form 430 in PAA. Take immediate action such as recognition, reward, or take corrective actions as appropriate.

### **The Performance Management System – Defined by TPR 430 – Covers:**

- Technician performance management – developing elements and standards.
- Technician performance appraisal process – levels of performance.
- Performance feedback sessions.
- Performance appraisal appeals.
- Performance Improvement Plans (PIPs).
- Personnel decisions based on performance.

## **Performance management comprises several factors. To provide accurate and fair performance appraisals, you should:**

- Involve employees in creating their performance plans. This includes the identification of critical and non-critical elements and performance standards. Plans should be effective during the first 30 days of the appraisal year or within the first 30 days, an employee starts a new job.
- Identify individual job elements - A job element is a key function of a job.
- Identify critical job elements - A critical element is a job function that is so important that failure to perform it successfully results in an overall unacceptable performance rating. At least 60 percent of the job elements must be critical.
- Specify measurable performance standards. They should measure quality, quantity, timeliness and/or manner of performance.
- Observe and document the employee's performance throughout the year. Formal semi-annual progress reviews and annual performance appraisals are required.
- Complete the performance appraisal by comparing the employee's performance with the standards identified in the performance plan.
- Recommend and take action based on the employee's performance. Recognize good performance or develop improvement strategies for poor performance.

## **Conducting the Appraisal**

### **Performance Feedback**

Supervisors should frequently praise and encourage technicians who are meeting objectives and assist technicians who are not. Supervisors should never wait until the formal performance appraisal (end of rating period) to advise a technician that performance was not acceptable. The technician should be advised of a problem as soon as the supervisor is aware of one. A supervisor may not render an unacceptable appraisal unless the technician has been provided prior notification and opportunities to improve. Performance feedback sessions may be rendered at any time and are mandatory on a semiannual basis. If a supervisor is contemplating an unacceptable rating, contact HRO/ERS.

### **General Rules for Performance Feedback Sessions**

- Discuss behavior rather than the person.
- Discuss observations rather than opinions.
- Discuss what was done rather than why it was done.
- Discuss behavior related to a specific situation, rather than the "Here and Now."
- Discuss the sharing of ideas and information.
- Have or conduct performance appraisal discussions at the appropriate time.

## **Performance Appraisal Discussion**

The goal of the performance appraisal discussion is a mutual understanding of actual performance results by the technician (in comparison with the supervisor's expectations as stated in the established standards) and actions for future improvement. These include specific efforts to improve performance in areas of identified weakness; to identify training and developmental activities, both short-term and long-term; to remedy deficiencies and/or expand skills and knowledge for career growth and review job elements and performance standards to ensure currency and establish performance goals for the next year. There are four basic requirements for a successful performance appraisal discussion:

- Adequate preparation.
- Adequate time.
- Privacy.
- Objectivity

## **Accomplishing the Official Annual Performance Appraisal**

The first step for the technician's supervisor in accomplishing the official annual performance appraisal (rating) is to instruct the technician to perform a self-assessment in PAA. Once the employee's self-assessment is complete, you should complete the supervisor performance assessment in PAA. Next, it is a good idea for the supervisor to discuss the appraisal with the reviewer (next level supervisor) before discussing it with the technician. This will give the supervisor an opportunity to obtain input from the reviewer, who may have a different and broader perspective and provide a chance to settle any differences of opinion that may exist. Lastly, the supervisor should discuss the formal rating with the technician with the goals of arriving at a mutual understanding of supervisory expectations, the level of accomplishment attained by the employee and future actions for improvement. Specific instructions on using PAA are on the HRO web site.

## **Performance Awards**

### **Purpose**

Performance awards are cash payments used to recognize an employee's successful performance measured against their performance standards. These awards are based on the employee's rating of record on their performance evaluation. Performance must be at the Fully Successful level or above to qualify for consideration for a performance award.

### **Rating an Employee on his/her Performance Plan**

- You propose a rating of record.
- Your proposed rating is then examined by the reviewing official. Upon agreement, the rating becomes the final rating of record.

### **Employees are Eligible for Performance Awards**

- They have served at least 120 days under a performance plan for the current appraisal year.
- They received a rating of fully successful.

## **Incentive Awards**

### **Purpose**

Incentive awards are used to recognize outstanding service and superior accomplishments and motivate employees and encourage good performance. Awards are granted when they are merited, regardless of an employee's grade level, level of responsibility or type of responsibility. They may be monetary or non-monetary.

### **Supervisor's Role**

As a supervisor you evaluate an employee's performance both formally and informally; therefore, you are the best person to recommend an employee or group of employees for an award. Because there are a number of different forms, procedures and time lines for the different awards, you should consult awards guidance materials and/or awards contacts (ERS) when nominating employees.

### **Incentive Awards**

- Are given to recognize the achievements and contributions of employees who perform significantly above and beyond the position's outstanding requirement.
- Can be monetary or non-monetary.
- Are given annually or at any time, depending on the type of award.

### **Nominating Employees**

Keep in mind that, although rare, it is possible for an employee to receive a monetary and a non-monetary award for different aspects of the same achievement, but they may not receive more than one monetary award for the same achievement.

## **Monetary Awards**

### **The Quality Step Increase (QSI) Award**

- May be granted to an individual who performs significantly above and beyond the position's outstanding requirement during a rating period
- Is available only to GS Technicians.
- Must perform in the same job and grade level for a minimum of twelve months.
- Is not appropriate when the technician is about to receive a promotion or has received a promotion within the past twelve months.

### **The Sustained Superior Performance (SSP) Award**

- May be granted to an individual for excellent or higher performance during a rating period. Performance must significantly be above and beyond the excellent performance during that rating period.
- Is a monetary award in recognition of significant superior performance, which clearly exceeds the technician's normal duties?

- The supervisor may recommend an amount; however, the State Incentive Awards Committee determines the final amount.

### **The Special Act or Service Award**

- Is granted to an individual or group of individuals for a special accomplishment.
- May also be for an act of heroism or one time special act or service.
- Recognizes performance that differs from or exceeds normal duties.
- Amount is based on the benefits to the Government.

### **The On-the-Spot (OTS) Cash Award**

- Is a type of Special Act or Service Award designed to promote productivity and creativity and to provide immediate recognition to employees who have made a notable contribution on individual tasks or assignments.
- OTS cash awards are in the amount of \$250 for a single award.
- Each OTS granted must be for unique acts and/or special accomplishments.
- OTS cash awards should be initiated within 14 days after the accomplishment.
- Should not be given when awards of greater value are merited.

### **The Time Off (TO) Award**

- Is given to individual employees or groups in recognition of special accomplishments that might otherwise go unrewarded, without loss of pay or charge to leave.
- Up to 40 hours may be approved by the selecting official at one time.
- Is limited to 80 hours per leave year per employee.
- Should not be given when awards of greater value are merited.

### **The Suggestion Award**

- May be given when an employee's suggestion is adopted and results in tangible or intangible benefits to the Government.
- Suggestions must meet several criteria such as:
  - The suggestion normally should be outside the suggester's job responsibilities.
  - Generally must be submitted in writing within 90 days after the date the suggestion form is signed. See TPR 451 and HRO/ERS for guidance.
  - Involves a proposal that is original to the National Guard as a whole.

## **The Invention Award**

- May be given for each patent application filed and each patent issued.
- Is in the amount of \$100 for each application filed.
- Is in the amount of \$300 for each patent issued.

## **Non-Monetary Awards**

### **Length of Service Awards**

- Technicians are awarded certificates and emblems as they reach milestones of Federal Service (5-year increments after 10-years creditable service up to and including 50 years).
- This award should be presented as soon as the technician attains eligibility.

### **Other Honorary Awards and Methods of Recognition**

- The Presidents Award for Distinguished Federal Civilian Service.
- Department of Defense Distinguished Civilian Service Award.
- Decoration for Exceptional Civilian Service.
- Meritorious Civilian Service Award.
- Presidential Recognition Program.
- Certificates of Achievement.
- Memoranda of Appreciation, etc.

Contact: For more information on awards, contact your HRO Incentive Award Manager.

## **Workers' Compensation**

### **Purpose**

The Federal Employees' Compensation Act (FECA) provides monetary compensation to employees for lost time due to diseases or injuries that result from employment with the Federal Government. The Office of Workers' Compensation Programs (OWCP), Department of Labor, is the organization that adjudicates Workers' Compensation claims. Worker's Compensation is protected under the Privacy Act and only the ICPA, supervisor and employee should be involved.

### **Supervisor's Role**

If you have an injured employee, the employee has the option to file a Worker's compensation claim. We cannot force them to do so nor can we prevent them from filing.

As a supervisor you are responsible for electronically completing the supervisor's portion of the Federal Employees' Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation, CA-1 or Notice of Occupational Disease and Claim for Compensation CA-2 claim form in a timely manner. You should also review the employee's statements for accuracy and provide a complete response to the claim to assist the Department of Labor to determine the Government's liability and appropriate action on the claim. Supervisors should contact their OWCP Specialist in the HRO for information on workers' compensation claims and guidance on the automated version of submitting and tracking OWCP claims.

## **Traumatic Injury**

### **Purpose**

All instances of traumatic injury must be documented. A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to the time and place it occurred and the function of the body it affects. It must be caused by a specific event, incident or series of events or incidents within a single day or work shift. Examples are cuts, sprains or broken bones suffered as a result of an on-the-job accident or injury.

### **Supervisor's Role**

Form CA-1 should be used when a traumatic injury occurs. The completed CA-1 must be completed immediately upon injury or immediately after report by the employee and submitted to the HRO OWCP Specialist as soon as possible. If you have any reason to think that the injury in question is not work-related or did not happen as the employee stated, you should contact the **OWCP Specialist** as soon as you receive the form from the employee. As the supervisor you can also notate your concerns on the CA-1 form under Sup Rpt 4

### **If an Employee's Disability Extends Beyond 45 Days.**

The employee is entitled to file for compensation for wage loss. After the 30th day of Continuation Of Pay (COP), you should provide the employee with Form CA-7, Claim for Compensation on Account of Traumatic Injury or Occupational Disease. The employee then submits the CA-7, along with medical documentation that substantiates all of the time off from work, to the HRO OWCP Specialist.

The CA-7 should be submitted no later than the 40th day of COP to avoid an interruption between the end of the COP period and the beginning of compensation. Employees who have no dependents are paid compensation at the rate of 66 2/3 percent of their regular pay. Employees who have dependents are paid compensation at the rate of 75 percent of their regular pay.

## **Continuation of Pay**

### **Purpose**

When an employee experiences a traumatic injury on the job, he/she could be entitled to Continuation of Pay (COP), which continues regular salary for up to 45 calendar days (including weekends and holidays). COP is provided to eliminate any interruption of an employee's income as the result of a traumatic injury. Employees claiming an occupational disease are not eligible for COP.

### **Supervisor's Role**

As a supervisor you must ensure the employee submits the proper medical documentation to support approval of COP. You should also monitor your employee's use of COP to ensure each day of COP is medically documented.

**Special Note! *Fraudulent claims are investigated by Federal Police from the Department of Labor and prosecuted in Federal courts by the U.S. Attorney's Office.***

**To Be Eligible for COP**

***The employee must file Form CA-1 within 30 days of the injury. When an employee uses COP, you should:***

- Charge COP in one-day increments even when the absence from work (due to the injury) is less than eight hours.
- Charge COP on the day following the date of injury when there is immediate time loss. The date of injury is not charged to COP. The pay code for COP immediately following date of injury is "LT".
- Charge excused absence administrative leave on the day of the injury if the injury occurred during the official workday and immediate time loss occurred. The pay code for the day of injury is "LU".
- Ensure a leave correction is submitted if the employee uses COP and the claim is denied. The employee may use sick leave, annual leave, leave without pay, etc., to replace the time charged to COP.
- Ensure medical documentation is provided to justify each day that the employee is absent from work, regardless of whether the employee has chosen to take annual leave, sick leave, COP, etc. You should also ensure that the medical documentation is adequate to justify each time the employee is absent.
- Be aware COP may be used up to 45 days. If after 45 days the employee is still unable to resume normal work, he/she may use annual or sick leave or file a claim of Compensation for Wage Loss by using form CA-7..

## **Light Duty**

### **Purpose**

When possible, assigning an employee to light duty is a modification of the injured employee's regular duties. Light duty is assigned to accommodate the employee's physical limitations. By assigning light duty, you can return the employee to work as soon as possible without causing a safety threat to the employee, to others who may be working with the employee or to Government equipment or property. You also save the Government the expense of paying an employee who is not at work.

### **Supervisor's Role**

It is your responsibility to offer the employee light duty if it is appropriate. Based on the medical documentation and the mission, the employee's assignments and work conditions may be restructured and light duty may be offered.

**You Should Offer Light Duty to an Employee When: The nature of the disability and the assigned mission allows the employee to continue to perform some of their duties per limitations outlined by the physician. The following are some brief guidelines for offering light duty:**

- Complete the front of Form CA-17, stating the usual physical requirements of the position. Attach a copy of the employee's position description.

- Forward this form to the employee's attending physician.
- An offer of light duty work may be made by telephone, but must be confirmed in writing in order to be valid. It should include a description of the duties and requirements of the offered position.
- If a personnel action is involved, the employee must be furnished with a copy before the effective date.

## Medical Documentation

### Purpose

When an employee seeks compensation for a traumatic injury or occupational disease, medical documentation must be provided to substantiate the claim. Employees may see the doctor of their choice, but the documentation provided must be "prima facie" or absolute, without any doubt. The medical documentation must show that the injury or illness is directly related to employment.

### Supervisor's Role

It is your responsibility to ensure the injured or ill employee provides medical documentation within 10 days of an injury. **Make it clear to the employee that it is the employee's responsibility to provide all written medical documentation to process his or her claims.** Any questions concerning the validity of claims for compensation are adjudicated by OWCP. For an occupational disease or illness, give the employee two copies of the appropriate checklist, Form CA-35 A-G, for the disease or injuries claimed and explain the need for detailed information. Advise the employee to furnish supporting medical and factual information requested on the checklist.

## Occupational Disease

### Purpose

**All instances of occupational disease must be documented.** An occupational disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It can result from systemic infection, repeated stress or strain or exposure to toxins, fumes or other continuing conditions in the work environment. Examples are carpal tunnel syndrome or asbestosis caused by the duties or work environment.

### Supervisor's Role

The CA-2 should be used when an occupational disease occurs. The CA-2 must be completed by both the employee and you and submitted to the OWCP Specialist within three weeks from the date you receive the claim from the employee.

### Occupational Disease

An employee claiming an occupational disease is not entitled to COP. However, the employee is entitled to receive the same compensation benefits as an employee who sustains a traumatic injury and can file for compensation for wage loss.

You should give the employee a Form CA-7, Claim for Compensation for both, the Traumatic Injury or Occupational Disease. The employee then submits the CA-7, along with medical documentation that substantiates all of the time off from work, to the HRO OWCP Specialist.

The CA-7 should be submitted as soon as possible to ensure the employee's pay is not interrupted. Employees who have no dependents are paid compensation at the rate of 66 2/3 percent of their regular pay. Employees who have dependents are paid compensation at the rate of 75 percent of their regular pay.

## **Electronic Official Personnel Files**

### **Purpose**

Electronic Official personnel files (eOPFs) contain the personnel actions and miscellaneous data associated with each employee's employment history. The main types of files are the Electronic Official Personnel Folder (eOPF) maintained by OPM in the eOPF data base and the Employee Performance File (EPF) in the Performance Appraisal Application Tool (PAA) located in MyBiz/My Workplace data base maintained by NGB, and the Supervisors Work Folder (SWF) that is maintained by the supervisor.

### **Supervisor's Role**

It is your responsibility to maintain the integrity of the employee official personnel work file under your control. A supervisor may be held personally liable for violating the confidentiality of or not safeguarding the contents of the Supervisor's Work Folder. Employees have the right to copies of any documentation contained in their personnel files or Supervisor's Work Folder. The supervisor should allow employees the opportunity to review the contents of their personnel files upon request. Employee representatives (i.e. union officials, attorneys, etc.) may not view official personnel files without the express written consent of the employee.

## **File/Folder Contents**

### **Electronic Official Personnel Folder (eOPF)**

The eOPF contains official documents related to the individual's employment history. These include permanent personnel actions, insurance information, military deposit receipts, other official documents, and unofficial documents such as temporary and supporting documentation in regards to temporary promotions, name changes, disciplinary and adverse actions.

This folder is developed by HR as a technicians is hired until the technician is separated from our agency. These files are the property of the Office of Personnel Management.

### **Performance Appraisal Application (PAA) Tool is the Electronic Employee Performance File (EPF)**

This file is maintained in the Performance Appraisal Application (PAA) Tool through MyBiz/My Workplace and contains at a minimum:

- Employee performance standards.
- Last three performance ratings of record.
- Any mandatory educational certification (auditors, contracting specialists, etc.). No other training certificates are authorized in the EPF.

## **Supervisor's Work Folder (SWF):**

### **The supervisor's individual work folders SHOULD contain:**

- Computer generated automated supervisor's brief and/or NGB Form 904-1 (supervisor's record of technician employment).
- Current, signed/certified position description with cover sheet (OF-8).
- Current, signed performance standards (HRO Form 430).
- Last three signed performance appraisals (HRO Form 430-1).
- Copies of current OWCP actions (i.e. Copies of CA-1, CA-17, etc.)
- Letters of commendation, counseling or reprimand covering the last appraisal period or the disposition date of the letter.
- Optional – Performance Feedback Sheets relating to last two appraisal periods (HRO Form 430-2).
- Optional – Copy of most recent SF-52 assigning person to the position.
- Optional – Consider a leave-tracking log for each individual to monitor leave balances.

### **The supervisor's individual work folders SHOULD NOT contain:**

- SF-50's (original should be recorded on 904-1 and given to the employee).
- Employee Assistance Program (EAP) documentation (private and confidential).
- Supervisor's personal notes – These are notes maintained by the supervisor as a separate file which has not been disclosed to any other individual (once notes are disclosed, they become a matter of record). Items in the SWF are a matter of record, which the employee has a right to copy or review.

## **Important Reminders:**

It is very important that the supervisor's work folders are maintained currently with emergency locator information and all SF-50 actions are posted, up to date, with the original distributed to the employee.

Documentation on performance and counseling must be timely and recorded on the supervisor's brief or 904-1 and initialed/dated by the employee and the employee's representative (if applicable). The 904-1 notations may be supported with letters for the file or addendum pages if necessary.

## Frequently Asked Questions (FAQs)

### Health Insurance

**Q: When and how often is Open Season conducted for health insurance?**

**A:** Open Season for health insurance is conducted annually and announced by OPM. It is usually conducted from the middle of November through the first week of December. The effective date of an open season election is the first pay period in January.

**Q: I am a new employee -- when does my health insurance become effective?**

**A:** New employees have 60 days during which to enroll in health benefits. The effective date of the election is the first pay period following the date the election form is completed through the Army Benefits Center – Civilian (ABC-C). [www.abc.army.mil](http://www.abc.army.mil)

**Q: When will I get my health insurance ID card?**

**A:** Each insurance carrier responds differently, but usually you should receive a card within 30 days from the effective date of your enrollment. Contact your insurance carrier immediately if you do not receive a card. It is highly advisable to maintain copies of the enrollment applications to provide proof of insurance during the ID card waiting period and show proof of insurance period.

**Q: What if I need to go to the doctor before I get my ID card?**

**A:** You should print the electronically signed copy of the SF 2809 (Enrollment Form for Health Benefits) immediately upon electing to enroll in a health benefit plan through Army Benefits Center – Civilian (ABC-C). You may use this form as proof of insurance before receiving your insurance cards.

**Q: Do I have to wait until Open Season to enroll if I am not currently enrolled?**

**A:** There are many reasons that would permit an employee to enroll in health benefits outside of an open season period; however, if your reason does not meet one of the criteria, you must wait until the Open Season. Please contact HRO/HRS Benefits or the Army Benefits Center – Civilian (ABC-C) for a list of reasons.

**Q: When can I add my spouse to my health insurance when I get married?**

**A:** An employee can add his/her spouse to health insurance coverage from 31 days before the marriage through 60 days after the marriage through Army Benefits Center – Civilian (ABC-C).

**Q: Can my mother or father be covered under my health insurance?**

**A:** Family members eligible for coverage under the Self and Family option include your spouse and your unmarried children, stepchildren and foster children under the age of 26. Other relatives, such as parents, are not eligible for coverage even though they may live with you and are dependent upon you.

**Q: I am resigning from my Federal job, how do I enroll for TCC?**

**A:** You must apply for Temporary Continuation of Coverage (TCC) with your agency Human Resources Office within 60 days from the date you separate from Federal service. TCC coverage becomes effective the day after the qualifying event. After your 31-day extension of your group coverage ends, you pay the full premium (the enrollee and Government contribution) plus a 2 percent administrative fee. For more information, contact your agency's Human Resources Office.

**Q: What happens to my technician Federal benefits when I am called to active duty?**

**A:** If you are being called to active duty in support of a contingency operation. The agency will pay your share of the FEHB premium for up to 24 months. The 24-month period starts the date I am placed on Absent-Uniformed Service or Separation-US. Employees not on a contingency operation will be able to keep FEHB and incur a debt up to 24 months. Employees are still covered by the retirement system and survivor benefits.

## **Life Insurance**

**Q: I waived my life insurance -- how can I start it now?**

**A:** Once you have waived your life insurance, you can only enroll through Army Benefits Center – Civilian (ABC-C) for the following reasons:

- After one year has passed since your waiver, you can request the Office of Federal Employee Group Life Insurance (OFEGLI) to approve life insurance coverage. You must complete a physical at your own expense and submit an SF 2822, completed by the physician, to the HRO/ERS,
- Have a break in service of at least 180 days or
- Participate in an open enrollment period, which is conducted infrequently.

**Q: How do I figure my basic life insurance amount?**

**A:** Your basic insurance amount is your annual salary rounded up to the next higher thousand plus \$2,000. For employees under the age of 35, this figure is multiplied by two.

**Q: How often is Open Season on life insurance?**

**A:** OPM determines when and if an open season will be conducted for life insurance. They are not conducted annually like health insurance.

**Q: What happens to my insurance when I go into a leave without pay status (LWOP)?**

**A:** Your life insurance coverage continues for up to 12 months in a LWOP or nonpay status. You do not have to pay any premiums while you are on LWOP unless you are receiving benefits from the Department of Labor, Office of Workers' Compensation Programs. At the end of 12 months in nonpay status, your coverage terminates with an automatic 31-day free extension of coverage and the right to convert to a private policy or continue your coverage for an additional 12 months of coverage, by paying both the premiums for Basic coverage, and pay the entire cost (there is no agency share for any Optional insurance for the additional 12 months of coverage).

**Q: Who will get my FEGLI life insurance benefits when I die?**

**A:** When you die, the Office of Federal Employees' Group Life Insurance (OFEGLI) will pay life insurance benefits in a particular order, set by law:

- If you assigned ownership of your life insurance, OFEGLI will pay benefits in the following order of precedence: First, to the beneficiary(ies) designated by your assignee(s), if any; Second, if there is no such beneficiary, to your assignee(s). If you did **not** assign ownership and there **is** a valid court order on file, OFEGLI will pay benefits in accordance with that court order.

- If you did **not** assign ownership and there is **no valid court order** on file, OFEGLI will pay benefits in the following order of precedence: <http://www.opm.gov/healthcare-insurance/insurance-fags/>

## Retirement

### **Q: How does a person apply for retirement?**

**A:** To apply for retirement, an employee should be directed to the HRO/HRS Benefits or the Army Benefits Center – Civilian (ABC-C). They will provide retirement estimates, forms and other information the employee will need for the retirement process.

### **Q: When is the best time to retire?**

**A: Voluntary Retirements:** For **CSRS or CSRS-Offset** employees, the last day of the month or within the first three days of the month. For **FERS** employees, the last day of the month. **Involuntary Separations and Disability:** any day of the month.

### **Q: What does the supervisor need to do?**

**A:** Generally, the supervisor is responsible for providing information for any letters/awards that are given to employees. The supervisor must also ensure a Request for Personnel Action, SF-52, is forwarded to the HRO/HRS Benefits. The supervisor should also consult with the HRO Classification Specialist concerning the procedure for filling the vacant position.

### **Q: How does a person apply for disability retirement?**

**A:** To apply for disability retirement, the employee should be directed to the HRO/HRS Benefits. The Human Resource Specialist will provide benefit information concerning eligibility and process.

### **Q: When is an employee eligible for disability retirement?**

**A:** Generally, an employee must meet certain service requirements for CSRS (5 years) or FERS (18 months). The employee's physician must certify the employee is unable to perform the main functions of his/her position and the disability is expected to last at least one year.

### **Q: What should the supervisor do to assist the employee applying for disability retirement?**

**A:** The supervisor is responsible for

- Ensuring the employee has submitted the necessary request and documentation to support an approved leave status while the application for disability is pending.
- Completing the supervisory form provided once the employee has decided to apply for disability and for providing documentation concerning performance, leave use, conduct and accommodation efforts.
- Ensuring that all efforts to accommodate the employee are made within the immediate work area.

## Questions Commonly Received When Recruiting NEW Employees

**Q: The prospective employee is currently participating in a 401K-Retirement Program with current employer -- can he/she transfer this fund to the Thrift Savings Plan?**

**A:** Contact the TSP Office.

**Q: What will be deducted from the salary for retirement purposes?**

**A:** FERS/CSRS Offset .8 percent for mandatory basic retirement, 7.75 percent for Social Security (OASDI = 6.2 percent + Medicare = 1.45 percent). CSRS is 7 percent for mandatory basic retirement.

**Q: Where can the supervisor receive more detailed information concerning retirement and other benefits?**

**A:** The supervisor should contact the HRO/HRS Benefits for retirement information.

## Performance Management Systems

**Q: What is a performance plan?**

**A:** A performance plan is the aggregation of all of an employee's written critical elements also called performance standard(s).

**Q: What is a job objective?**

**A:** A job objective is a distinguishable task or unit of work required by an employee's position. Job objectives state the supervisor expectation and major responsibilities assigned to an employee.

**Q: What is a rating of record?**

**A:** A rating of record is a required summary rating following the completion of the rating period or at other times for special circumstances. There is only one rating of record in an appraisal year. A rating of record will ordinarily reflect as many summary ratings as were made during the appraisal year.

## Incentive Awards

**Q: Who can initiate a Special Act or Service Award?**

**A:** This award is normally initiated by the first level supervisor. Sometimes an official in another location will submit an award nomination. When this occurs, the nominating official must obtain concurrence from the organization where the employee works.

**Q: Who can approve a Special Act or Service Award?**

**A:** This award is generally approved by the State Incentive Awards Committee. You should consult TPR 451 for up-to-date guidance on incentive awards.

## **Workers' Compensation**

**Q: Can an employee who is dissatisfied with his or her medical care change physicians?**

**A:** The employee must contact the Office of Workers' Compensation Programs (OWCP) and request authorization to change to another physician. Otherwise, OWCP will not be liable for the expenses of treatment. The employee should request any such change in writing with an explanation of the reasons for the request and forward informational copies to HRO/ERS for the OWCP file.

**Q: Will an employee's health benefit plan pay medical expenses resulting from work-related injury or disease?**

**A:** Health benefit plans have an exclusion clause regarding workers' compensation injuries. A plan will not pay medical expenses if the insurance carrier is aware that a workers' compensation injury is involved. If the insurance carrier pays for medical expenses that are later determined to be employment related, OWCP will reimburse the insurance carrier upon submission of copies of the medical bills.

# **SECTION 4:**

# **QUALITY OF WORK LIFE**

# QUALITY OF WORK LIFE

## Leave Administration Program

### Purpose

Many types of leave are available to employees. Different types of leave are used for different purposes and you must understand the similarities and differences in types of leave so that you can properly approve leave requests and time records.

### Supervisor's Role

As a leave-approving official, you have the following responsibilities: ensuring your employees are informed of procedural requirements for requesting and using leave, regularly reviewing the leave records of your employees, advising your timekeeper of what type of leave to charge and establishing leave schedules that meet operational demands and allow employees the opportunity to use leave they would otherwise forfeit.

### Types of Leave – Refer to TPR 630

**Annual Leave** - Annual leave is earned by employees based on length of service with the Government and is usually requested in advance. Employees carry over accrued leave from year to year up to 240 hours (for most employees). Part-time employees earn a prorated amount of annual leave. (Intermittent employees earn no sick or annual leave.)

**Advanced Annual Leave** - Advanced annual leave may be granted for the amount of annual leave the employee will accrue from the time it is requested through the end of the current leave year.

**Sick Leave** - Sick leave is used for sickness, injury, pregnancy, medical, dental or optical examinations/treatments and for taking care of family members who are ill. Employees may use 104 hours of sick leave to care for a family member or to make arrangements for or attend the funeral of a family member. See HRO/ERS for the current definition of "Family Member." Sick leave is accumulated and can be carried over from year to year. Part-time employees earn a prorated amount of sick leave.

**Advanced Sick Leave** - Advanced sick leave may be granted for a period not exceeding 240 hours in cases of serious disability or illness. Advanced sick leave cannot be approved by the immediate supervisor. See HRO/ERS for details.

**Absent Without Leave (AWOL)** - AWOL is any absence from duty not authorized by the proper leave-approving official and may be the basis for disciplinary action. All instances of AWOL should be documented and that documentation shared with the employee involved.

**Court Leave** - Court leave is an excused absence that may be authorized for either jury duty or for testifying in a nonofficial capacity as a witness in certain circumstances in a State or Federal court.

**Military Leave** - 120 hours military leave is an authorized absence to perform active military duty, active duty for training or law enforcement. Military leave is authorized for inactive duty training.

**44 Days Military Leave** – Technicians are not eligible for 44 days additional military leave for support of military duty outside of the continental United States (OCONUS – Title 10 status only, since there are no geographical limits declared on the Global War on Terrorism).

**Absent - Uniformed Service** employee is absent (whether in pay or nonpay status) to perform duty with the uniformed services and has reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA – 38 U.S. Code chapter 43). If on a trial-period extension, upon return or restoration, an employee is entitled to be treated as though he/she never left for the purposes of rights and responsibilities based upon the length of service. The technician must be considered for career ladder promotions. The time spent in military service will be credited for seniority, successive within-grade increases, probation, career tenure, annual leave accrual rate and severance pay. Technicians on temporary appointments may serve out the remaining time, if any, left on the appointment. The military activation period does not extend the temporary appointment with a not to exceed date.

**Leave Without Pay (LWOP)** - LWOP is an approved absence from duty without pay. LWOP can affect an employee's waiting period for within-grade increases, in addition to health benefits, life insurance and accrual of annual and sick leave

**Excused Absence** - An excused absence is absence from duty without loss of pay or charge to leave. Excused absence is often referred to as "**administrative leave**."

**Compensatory Time** - In lieu of overtime pay, you may be granted compensatory time. The amount of time given is equal to the amount of time worked in an overtime or irregularly scheduled work status.

**Funeral Leave** - Under certain conditions, to make arrangements for an immediate relative who died while serving as a member of the armed forces in a combat zone or to participate as a pallbearer or member of a firing squad or honor guard under certain conditions. Contact HRO/ERS.

**22-Days Military Leave** - 22-Days military leave in a calendar year is available to technicians for the purpose of providing military aid to enforce the law or assist civil authorities (see HRO/ERS).

### **Special Leave Programs for Employees**

**Family and Medical Leave Act** - Entitles an employee to 12 work weeks of LWOP (can substitute paid leave as appropriate) for a serious health condition of the employee, spouse, child or parent or to care for a newborn, adopted or foster child.

**Voluntary Leave Transfer Program** - Allows the transfer of unused accrued annual leave to employees who need leave because of a medical emergency of either the employee or a family member once approved for participation in the leave transfer program. A qualifying medical emergency is one in which it is expected the employee will be absent from duty without available leave for at least 24 hours. Certain criteria must be met to participate as a leave recipient.

**Sick Leave for Adoption** - Allows the use of sick leave to cover absences related to adopting a child. Also allows the use of sick leave to cover appointments with adoption agencies, court proceedings, required related travel and medical appointments for the child.

**Leave for Bone Marrow/Organ Donor** - An employee may use up to 7 days of paid leave each calendar year to serve as a bone-marrow donor. An employee also may use up to 30 days of paid leave each calendar year to serve as an organ donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

**Maternity Leave** - Female technicians may charge absence for maternity reasons to a combination of sick leave, annual leave, compensatory leave and LWOP. Employees may use sick leave when they are actually unable to perform the duties of their job as a result of their pregnancy and while they are recovering from childbirth.

## Timekeeping — Approving Time Records

### Purpose

Before a time record can be processed by payroll, it must be approved by the leave-approving official. Time records that are incorrectly approved can cause errors in an employee's pay and leave. Errors in pay and/or leave always cause employee problems and should be avoided.

### Supervisor's Role

As a supervisor you, **NOT** the timekeeper, are responsible for the accuracy of the information recorded on each employee's time card. The timekeeper records the information you have indicated as being correct by your signature on the completed time record. See the box below for information on what to look for when approving a time record.

**When approving a time record** you must verify all pay and leave hours recorded are correct and comply with all rules, regulations and policies. You can be held accountable for any incorrect payments or leave charges. The following are some tips to consider when approving time records:

- A typical pay period is 80 hours. Unless the employee has begun work or separated from his/her position within the pay period, pay periods are generally 80 hours for full-time employees.
- If any leave was taken during the pay period, there must be an approved OPM-71 on file. If any compensatory time is accrued during a pay period, there must be an approved comp time request recorded with the timekeeper.
- If there were any paid holidays during the pay period, they must be designated as such.
- Any changes to a time record should be made by the TIMEKEEPER only when approved and initialed by you.

## Timekeeping — Resolving Problems

### Purpose

Because pay and leave problems can directly affect an employee's performance, errors in pay and leave must be corrected as quickly as possible. The payroll offices at each Wing FM and USPFO are points of contact to provide assistance and guidance in the procedures for requesting adjustments or corrections.

### Supervisor's Role

As a supervisor you will need to review the corrections to ensure the adjustments/amendments comply with OPM, NGB, DCPS and other regulations. You must be familiar with the required forms and regulations in order to provide guidance to the timekeeper on proper procedures to request corrections or adjustments.

## **Balancing Work and Family Programs**

### **Purpose**

The DoD places a high value on its human resources. The ability to attract and retain highly qualified and productive employees is critical to achieving our mission. That value is reflected in the many programs offered to employees that focus on balancing work and family. Some of the programs that are designed to help employee's better balance work and family responsibilities are:

- Work schedule flexibility under certain conditions with Agency approval.
- Employee Assistance Program.
- DoD Family Readiness Program.
- Leave programs such as Family and Medical Leave Act, Voluntary Leave Transfer Program, Sick Leave for Adoption and Excused Leave for Bone Marrow/Organ Donor.

### **Supervisor's Role**

In some situations, employees may require special consideration or implementation of one of the above programs. It is your responsibility to consider approving the usage of these programs, while complying with the policies set by the National Guard Bureau.

## **Employee Assistance Program (EAP)**

### **Purpose**

At one time or another employees experience personal problems that may interfere with work performance and/or conduct and which lower productivity and workforce morale. The Employee Assistance Program (EAP) is a voluntary, confidential program that provides access to professional counselors who can assist troubled employees return to normal work productivity and/or acceptable levels of conduct.

### **Supervisor's Role**

As a supervisor you should become involved when an employee's problem becomes severe enough to affect his/her work performance and/or conduct. You play a critical role in early detection of developing problems by observing and documenting deficient performance and unacceptable conduct and referring the employee to the EAP when you recognize a pattern of deterioration. You are not required, nor is it appropriate for you, to diagnose an employee's problem. Your most significant contribution is to recognize the indicators of developing problems and then encourage the employee to seek assistance through EAP.

For more detailed information on recognizing employee problems, EAP services, referring an employee to the EAP and supervisor's do's and don'ts, see the following pages.

## **EAP Services**

**The EAP can provide employees with assistance in a number of areas including financial hardship, difficult marital/family relationships, stress-related issues, alcohol or drug dependency/abuse, depression, grief, legal concerns or medical/emotional issues.**

**Counseling** - EAP counseling can take place in either an individual or a group setting. Initial counseling is free and a skilled professional will provide a confidential assessment of the problem as well as on-site, short-term professional counseling. If necessary, the EAP counselor will refer the employee to a local agency or professional for treatment. The first three visits are at no expense to the employee. The EAP counselor will also follow up with the employee as to the treatment program and progress.

**Consultation** - An EAP counselor can consult with you, Employee Relations, EEO, the Health Unit or the Drug Testing Program. You may also consult with an EAP counselor about an employee problem before you discuss the situation with the employee.

**Education** - The EAP can provide you and your employees with educational services, such as programs and services on stress management, managing different types of people, coping with change, weight management and assertiveness skills. The EAP also periodically distributes information for employees.

**Training** - The EAP provides training to supervisors on how to use the program as a management tool. An orientation that explains the purpose of the program and how to use it is also provided to new employees.

## **Recognizing Employee Problems**

**Employees may experience a number of different personal problems all of which may affect performance or conduct. Examples of such programs are financial difficulties, troubled marital/family relationships, stress-related issues, alcohol or drug dependency/abuse, depression, grief, legal concerns, elder or child-care issues and/or medical/emotional issues. The following are some warning signs that indicate an employee may be experiencing a problem.**

### **Behavior**

- Physical or verbal threats or assault.
- Inability to cooperate with others.
- Disrespectful or insubordinate conduct.
- Sleeping on the job.
- Falsification of reports, time records, etc.
- Using/possessing alcohol or drugs at work.
- Frequent work-related injuries.
- Change in character, attitude or appearance.
- Isolation/withdrawal from coworkers.
- Increased physical complaints/health problems.
- Theft or misuse of Government property.

## **Attendance**

- Tardiness.
- Extended lunch breaks.
- Patterns of absenteeism (i.e., Mondays or Fridays).
- Absences from the work site.
- Frequent unscheduled leave.

## **Performance**

- Missing deadlines or needing excessive time for assignments.
- Inconsistent work quality.
- Work quality below supervisory expectations or peer average.
- Difficulty in following instructions, procedures, etc.
- Forgetfulness, absent-mindedness and difficulty in concentration.

## **EAP Referrals**

Employees may seek assistance from the EAP on their own without you knowing contact has been made. Although employees are encouraged to take advantage of the program on their own, you may find it necessary to seek the services of the EAP when an employee exhibits deteriorating performance and/or conduct. If this occurs, a referral to the EAP is encouraged. However, it is not mandatory employees participate in the EAP after having been referred.

Whether or not the employee participates in the EAP, work performance and/or conduct is expected to improve. Often it will. If it does not, you may choose to seek advice from the Employee Relations staff regarding disciplinary measures available to remedy the situation. The following steps are a guide to EAP referrals:

- Observe the work performance and/or conduct.
- Identify problem areas.
- Document your observations.
- Consult with the State Equal Employment Manager (SEEM). Missouri's SEEM is the EAP program manager.

- Conduct a supervisory counseling session with the employee. During this session you should:
  - Describe the performance and/or conduct problem.
  - Explain the desired change.
  - Establish a time frame for changes.
  - Discuss the consequences of failure to change.
  - Explain and recommend the EAP.
  - Offer to schedule an EAP meeting.
- Provide sick leave from work for the employee to attend EAP sessions.

### **Supervisory Do's and Don'ts**

You should take care when addressing EAP-related problems. Although you may be nervous about discussing the issue, your employee may be even more uncomfortable. Keep these **Do's and Don'ts** in mind when talking to employees about the EAP:

- **Do** take action and address the problem.
- **Do** emphasize you are only concerned with work performance, leave and conduct, as appropriate.
- **Do** have documentation of work performance, leave use or conduct in front of you. Your memory may not be reliable.
- **Do** remember certain personal problems get worse, never better, without treatment or assistance.
- **Do** alert the EAP counselor you are making a referral.
- **Do** explain that the EAP is a voluntary program.
- **Do** emphasize all aspects of the program are confidential.
- **Do** remember problem drinking, misuse of drugs and emotional disorders are progressive, treatable illnesses.
- **X Don't** try to diagnose the problem.
- **X Don't** moralize. Limit comments to the symptoms of the problem (i.e., deficient work performance, difficult interpersonal relationships with other employees or tardiness).
- **X Don't** be misled by sympathy-evoking tactics. You may be facing an expert "con-artist."
- **X Don't** hesitate, cover-up or enable the behavior. Remember addiction and/or emotional disorders are progressive illnesses that can be fatal.
- **X Don't** make meaningless threats about disciplinary action. If there is a threat, there must be a commitment to follow through.

For more information on the Employee Assistance Program (EAP), contact your State Employee Assistance Program Coordinator.

## Family Readiness Program

### Purpose

Family Readiness Programs are a tool for developing strong, self-reliant families that can withstand the rigors of deployments and support continued participation in the National Guard. Family readiness is not the product of a one-time effort. Throughout **training and unit mission** activities, the Family Readiness Team must continually work to maintain the flow of information and provide support services.

Commanders use Family Readiness Group meetings, newsletters, telephone calls, e-mail and even the Internet to disseminate information. The Family Readiness Group (FRG) plays a significant role in linking the commander, service member and family member in the unit. The FRG is an organization of officers, enlisted service members, civilians and family members that uses staff and volunteers to provide social and emotional support, outreach services and information to family members. The FRG gives moral support to family members, service members, civilians and military units during periods of normal military life and military deployments and crisis. As deployments near, the need for family readiness oriented activities increases. Effective commanders use the **predeployment** briefing as a means of demonstrating the unit's commitment to support families during the sponsor's absence. Commands also increase their outreach to spouses and work with unit members to review family care plans and financial issues to ensure deployability is maintained. Family support activities are fully operational during **deployments** as the Family Readiness Program staff assists families to meet their informational and service needs. After deployment, the command uses **reunion** activities to ease the return of Reservists not only to their families but also to their employers. Units can capitalize on technology to link members, family members, commanders and Family Readiness Program staff. Email, video teleconferencing (VTC), Internet sites, Family Readiness Group meetings and command information newsletters all contribute to maintaining the flow of information and reducing the stress of family separation. Ultimately, the goal of Family Readiness Programs is the development and sustainment of self-reliant families that are prepared for and capable of surviving the stress of deployment. Successful Family Readiness

Programs are the product of four key factors: command emphasis, effective staff support, dynamic Family Readiness Program leadership and proactive, communicating members and spouses. The objectives of the Family Readiness Program for the National Guard Bureau (NGB) are:

- To establish a means of opening communication between the families of NGB personnel.
- To improve family awareness of the organization of the local NG unit, its missions and activities.
- To develop family support networks through which families can mutually support the unit and each other.
- To make families aware of the existence and nature of benefits and entitlements both in inactive status and upon State and Federal active duty mobilization.
- To provide essential services to military families upon mobilization in designated Family Assistance Centers.
- To develop programs that improves the quality of life for the Guard member and his/her family.

### Supervisor's Role

As a supervisor you are responsible for making the information concerning the Family Readiness Program available to all of your employees.

## Frequently Asked Questions (FAQ's)

### Leave Programs

**Q: If an employee is absent without approved leave, when should the supervisor place him or her on LWOP?**

**A:** If after considering all relevant facts management has determined, an employee's absence should not be approved, the employee should be charged AWOL (absent without official leave) for the appropriate time. Frequently, supervisors confuse LWOP with AWOL. AWOL and LWOP are similar in that they both indicate a non-pay, non-work status. LWOP is considered an "approved" absence and should only be charged to an employee at the discretion of the supervisor after reviewing all relevant facts if the employee requests it. On the other hand, AWOL is considered misconduct and can lead to disciplinary action, up to and including removal.

**Q: Under what conditions can/should an employee be disciplined for abusing annual leave?**

**A:** Technically, employees cannot abuse annual leave. Employees are free to use annual leave for whatever purpose they choose. However, employees are required to follow Agency procedures for requesting annual leave. If an employee fails to follow such procedures, the employee risks having their request for annual leave disapproved.

**Q: Under what conditions should I disapprove annual leave?**

**A:** The disapproval of annual leave should be based on a business reason (i.e., a mission needs to have the employee at work performing official duties).

**Q: When may a supervisor require documentation for sick leave requests?**

**A:** A supervisor may require that the employee provide a doctor's excuse (medical documentation) for any future use of sick leave whenever he/she suspects sick leave abuse. In any case, a doctor's excuse is generally required for sick leave in excess of three workdays. Review TPR 630 and the current labor-management agreement for further guidance.

### Family and Medical Leave Act (FMLA)

**Q: What justification is required to use the FMLA?**

**A:** The employee is generally required to provide advance leave notice and medical certification. The employee ordinarily must provide 30 days advance notice when the need for FMLA leave is foreseeable. If the need for leave is not foreseeable (i.e., a medical emergency), the employee must provide notice within a reasonable period of time appropriate to the circumstances involved. HRO/ERS may require medical certification to support a request for FMLA leave. (Medical evidence should be required before granting leave under FMLA.)

**Q: Can paid leave be substituted for FMLA leave?**

**A:** The Agency may not require an employee to substitute accrued or accumulated annual and/or sick leave or other paid time off for the unpaid FMLA leave in accordance with current law and regulations. However, an employee may elect to do so. An employee may not retroactively substitute paid time off for unpaid FMLA leave. FMLA leave is in addition to other paid time off available to an employee.

## **Voluntary Leave Transfer Program – Reference TPR 630**

### **Q: What is the voluntary leave transfer program?**

**A:** The voluntary leave transfer program allows an employee to transfer annual leave to another employee who has a medical emergency in his or her family. To be eligible to become a leave recipient, an employee must be experiencing a “medical emergency” and be an approved recipient under TPR 630.

### **Q: What is a “medical emergency” under the voluntary leave transfer program?**

**A:** A qualifying medical emergency is a medical condition of either an employee or a family member that would most likely require a prolonged absence from work and would result in a substantial loss of income because of the unavailability of paid leave. Examples of situations that do not constitute medical emergencies include care of a newborn or adopted child, unless extenuating medical circumstances exist, and time off for elective surgery.

### **Q: What constitutes a “substantial loss of income?”**

**A:** A substantial loss of income is an absence from duty without available paid leave (excluding any advanced leave) because of a medical emergency when the absence is (or is expected to be):

- At least 24 hours in duration for a full-time employee.
- At least 30 percent of the average number of hours of work in the biweekly tour for a part-time employee or an employee with an uncommon tour of duty.

### **Q: When does a “medical emergency” end?**

**A:** A medical emergency ends when the leave recipient leaves the Federal service; when the Agency receives written notice from the leave recipient that he or she is no longer affected by a medical emergency; when the Agency determines, after written notice and opportunity for the leave recipient to reply, the medical emergency has ended or when OPM has approved an application for disability retirement for the leave recipient.

### **Q: Do agencies accept donations of annual leave from employees of other agencies under the voluntary leave transfer program?**

**A:** Yes. Interagency leave transfer is mandatory if a family member of a leave recipient is employed by another Agency and requests the transfer of annual leave to the leave recipient. Also, an Agency may accept leave from donors in other agencies if, in the judgment of the leave recipient’s employing Agency, the amount of annual leave donated from that Agency’s leave donors may not be sufficient to meet the needs of the leave recipient.

### **Q: Are there any limitations on the amount of leave an employee may donate?**

**A:** Yes. Generally, an employee may not donate more than one-half of the amount of annual leave he or she would be entitled to accrue in the leave year.

### **Q: How do employees find out who has applied for the voluntary leave transfer program?**

**A:** Donations are actively solicited for approved participants in the program. Individual announcements are forwarded to all ANG or ARNG e-mail users and approved participants are recorded in the Human Resources Office, Employee Relations Section.

## **Sick Leave for Adoption**

### **Q: What types of adoption-related activities are covered?**

**A:** The purposes for which an adoptive parent may request sick leave include appointments with adoption agencies, social workers and attorneys; court proceedings required travel and any other activities necessary to allow the adoption to proceed.

### **Q: Is the amount of sick leave an employee may use for adoption-related purposes limited as it is for other family-care purposes?**

**A:** No. The amount of sick leave taken for adoption-related activities is not limited to a specific number of hours.

## **Timekeeping**

### **Q: What happens if I am not available to approve time records?**

**A:** All supervisors should ensure alternates are available for approving time records in their absence.

### **Q: When are time records due?**

**A:** All time records must be transmitted/faxed to the appropriate payroll office by the timekeeper no later than 12:00 noon on Friday at the end of the pay period. Occasionally, there is a need to have an earlier cut-off.

### **Q: Why is it important to track leave balances?**

**A:** Tracking leave balances is important to ensure an employee does not request more leave than they have available and ensure sick leave is not being abused (repeating patterns, etc.)

### **Q: How is leave reported after the submission of the time records?**

**A:** Any leave not reported on the original time record must be charged using an amended time card in the pay system. The only hours that may be reported retroactively are hours for premium pay (i.e., night differential, environmental differential, etc.). Premium pay hours should be reported within two pay periods. Otherwise, the timekeeper must process an amended record for the hours excluded from the original submission.

For procedures and general information regarding timekeeping, payroll rules, regulations and procedures, contact your payroll office at each Wing FM or the USPFO.

## **Balancing Work and Family Programs**

### **Family Readiness Program**

#### **Q: When should employees be referred to the Family Readiness Program?**

**A:** Prior to deployment, many employees and their families have questions and concerns that can readily be addressed by the Family Readiness Program coordinator. The Family Readiness Program can be a great network for support during the long deployment of a loved one.

## **Employee Assistance Program (EAP)**

### **Q: What type counseling does EAP offer?**

**A:** The program offers assessment and referral services and problem solving counseling for all technicians who are experiencing problems such as:

- Problems with alcohol.
- Emotional/psychological problems.
- Eating disorders.
- Stress-of-life crisis.
- Family or marriage problems.
- Grief/loss of a loved one.
- Financial or legal problems.
- Job-related stress.
- Unexplained declining job performance, etc.

***Missouri's EAP coordinator is available to talk with employees, help them assess their needs and make appropriate referrals when necessary to counseling resources in the local community.***

### **Q: Is use of the EAP counseling service confidential?**

**A:** Contacts with EAP counselors are conducted in strict confidence. EAP contacts do not become part of an employee's personnel file. An employee using the counseling service can be certain no information shared (as long as it is not illegal, etc.) with the counselor will be divulged to anyone else.

### **Q: Is there a cost to the employee for use of EAP?**

**A:** There is no cost to the employee for the services of the EAP coordinator. If a technician is referred to an EAP Counselor, the first three visits are free to the technician, paid for by our agency. Additional fees charged by outside referral sources will be covered by the employee and/or the employee's health insurance. The EAP coordinator works closely with the employee to choose a referral resource that is within the employee's means.

### **Q: What will a counseling session be like?**

**A:** It will usually be a session in which the employee and counselor talk in person or by phone about the problem at hand and possible steps toward resolution.

For more information on the EAP and Quality of Work Life Issues, contact the State Equal Employment Manager.

**SECTION 5:**

**CONDUCT,  
PERFORMANCE  
AND  
DISCIPLINE**

# Conduct and Performance Discipline

## General Ethics

### Purpose

Public service is a public trust and each Federal employee has a responsibility to the U. S. Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure every citizen can have complete confidence in the integrity of the Federal Government, each employee must respect and adhere to the fundamental principles of ethical standards.

### Supervisor's Role

As a supervisor you are responsible for modeling ethical behavior and providing appropriate referral, advice and guidance to employees regarding ethics, thus ensuring compliance with the regulations outlined in the various standards of conduct regulations that govern DoD employees. The Agency ethics official is the Judge Advocate (JAG). For details contact either the JAG or HRO.

## Gifts from Outside Sources

### Purpose

At various times during the year, employees may receive gifts from a number of sources, both inside and outside the Government. Sometimes these gifts are acceptable; at other times they are not. To determine whether or not a gift is acceptable, employees may need to discuss the matter with their supervisors.

### Supervisor's Role

Employees may request advice in determining whether or not a gift is acceptable and you should be familiar with the Standards of Conduct in order to provide the proper guidance. You have only one specific responsibility regarding gifts from outside sources. If an employee receives a gift that he/she may not accept and the gift is perishable, it is your responsibility to determine how the gift will be disposed of, (i.e., either given to an appropriate charity, shared with the office or destroyed).

**General Standards** of ethical conduct prohibit an employee from either soliciting or accepting, directly or indirectly, a gift:

- From a prohibited source (see definition below).
- Given because of the employee's official position.

**A Prohibited Source** is:

- A person seeking official action by the DoD.
- A person doing business or seeking to do business with DoD.
- A person who conducts activities regulated by DoD.
- A person having interests that may be substantially affected by performance or non-performance of the employee's official duties.
- An organization, a majority whose members are described as any of the four sources above.

Because there are several provisions as well as exceptions to the policy on accepting gifts from outside sources, you should always check with the agency ethics official (JAG).

## **Gifts Between Employees**

### **Purpose**

Employees often wish to give a gift to their supervisor or other employees on special occasions. In general, it is not acceptable to give a gift to a supervisor or another employee who receives higher pay.

### **Supervisor's Role**

As a supervisor it is your responsibility to know when it is permissible for you to accept a gift from a subordinate. You are obligated to follow the rules stated in the Standards of Conduct Regulations.

**General standards of ethical conduct prohibit employees from giving gifts to their supervisors. Unless provided for as an exception to the Standards of Conduct, an employee may not:**

- Directly or indirectly give a gift to or make a donation toward a gift for an official superior.
- Solicit a contribution from another employee for a gift to either his/her own or the other employee's official superior.

Because there are several provisions as well as exceptions to the policy on gifts between employees, you should always check the Standards of Conduct and consult the agency ethics official (JAG).

## **Conflicting Financial Interests**

### **Purpose**

At times, employees will acquire financial interests that are prohibited by regulations. Employees are not allowed, in accordance with the Standards of Conduct, to participate in matters that would place them in a situation of conflicting financial interest.

### **Supervisor's Role**

You play a pivotal role in conflicting financial interest situations. Though an employee must inform you of any potential conflict-of-interest, it is your responsibility to ensure your employees are not given an assignment that would place them in a position to violate the Standards of Conduct or Title 18, United States Code, Section 208, which is a criminal statute.

Statutory prohibition prevents employees, by criminal statute, Title 18, United States Code, Section 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to their knowledge, they or any person whose interests are imputed to them under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

## Impartiality in Performing Official Duties

### Purpose

Sometimes employees are requested to participate in an assignment they know is likely to affect the financial interest of either a member of their household or a person with whom they have a covered relationship (see definition below). If an employee determines a reasonable person with all of the relevant facts would question his/her impartiality, the employee should use the process described in the Standards of Conduct to determine whether to participate.

### Supervisor's Role

If an employee requests assistance, you should assist him/her in determining whether a reasonable person with all the relevant facts would question his/her impartiality in performing an assignment related to a personal or business relationship. After you have made the determination, you must ensure all measures are taken to ensure impartiality by providing written analysis to the agency ethics official (JAG), requesting a waiver or disqualifying the employee from participating in the specific matter.

**Covered relationships are relationships between the employee and:**

- A person, other than a prospective employer described in Section 2635.603(c) of the Standards of Conduct, with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction.
- A person who is a member of the employee's household or who is a relative with whom the employee has a close personal relationship.
- A person for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.
- Any person for whom the employee has within the last year served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.
- An organization, other than a political party described in 26 USC 527(e), in which the employee is an active participant.

**When evaluating situations involving personal and business relationships consider:**

- The nature of the relationship involved.
- The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship.
- The nature and importance of the employee's role in the matter, including the extent to which the employee is called to exercise discretion in the matter.
- The sensitivity of the matter.
- The difficulty of reassigning the matter to another employee.
- Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

## Seeking Other Employment

### Purpose

At any given time employees may consider non-Federal employment. However, Federal employees shall not engage in outside employment or activities that conflict with official duties and responsibilities. To avoid potential conflicts of interest or appearances of conflict, employees are required to follow the guidelines found in the Standards of Conduct.

### Supervisor's Role

Employees must make you aware of a potential conflict-of-interest situation if they are seeking other employment. As a supervisor it is your role to ensure employees who negotiate for prospective employment are not assigned work that may directly affect the prospective employer. If all conditions in the regulations are met for a waiver (request for approval), you should work with the employee to ensure all necessary approvals are received.

If you are seeking a waiver you should consult the Standards of Conduct. There are a number of types of waivers and many inclusions and exclusions. The agency ethics official (JAG) can give you guidance and assistance and will provide you with the standard waiver letter format.

## Employee Outside Activities

### Purpose

Employees may be involved in activities and/or employment outside of their official position, such as teaching, writing, serving on boards or part-time employment. Because participation in some activities may create a conflict-of-interest, employees are required to have all outside activities that require the use of their Guard specific qualifications readily identified with DoD employment approved before they may participate in them.

### Supervisor's Role

Employees should bring all outside activities to the attention of their supervisor. As a supervisor you should monitor your employees to ensure there are no violations of the regulations or code of conduct as a National Guard Technician.

### Outside activities that require advance approval include the following:

- Writing, editing and publishing.
- Teaching, lecturing and speech making.
- All professional and consultative services, including outside private practice.
- Other activities that specifically employ the general professional expertise related to the employee's DoD responsibilities.

**Memberships** in certain charitable, religious, social, fraternal, recreational, public service, civic or similar non-business organizations need not be approved. For guidance on approving and disapproving activities consult the **Standards of Conduct** or any of the references or contacts listed in this entry. Even though an outside activity may not be **prohibited** in the Standards of Conduct, you and the employee should be aware that it may either **violate** other principles or standards set forth or require employees to disqualify themselves from participating in certain activities under the principles of conflict-of-interest or impartiality.

## **Employee Official Duty Participation in Outside Organizations**

### **Purpose**

DoD encourages its employees to participate in professional activities that increase military and professional knowledge, enhance technical proficiency and expand awareness of National Guard issues. Such participation includes maintaining membership in professional and military associations and societies, serving as a liaison to an outside organization, serving on advisory or standard-setting committees of non-Federal organizations and holding office in professional organizations. Although this type of professional activity is generally encouraged and fostered, participation beyond ordinary membership must be approved in advance. The agency ethics official (JAG) and HRO may review and evaluate participation in outside organizations to ensure the service furthers the Agency's mission and prevent an actual or apparent conflict-of-interest. The level of participation and the employee's duties at DoD will determine the potential for conflict-of-interest concerns.

### **Supervisor's Role**

Supervisors must be aware of employees' official duty roles in outside organizations and ensure approval is received for roles beyond ordinary membership, because participation must not be or appear to be inconsistent with the policies, programs or operations of DoD, NGB and the Executive Branch.

Because service as an officer, director or trustee of an outside organization violates the conflict-of-interest statute, 18 U.S.C., § 208 (which prohibits any Federal employee from participating in an official matter that affects the financial interest of an outside organization in which the individual serves as an officer, director or trustee), it will be approved only in exceptional circumstances. Such service requires a conflict-of-interest waiver approved by the Agency. Before requesting such participation, you should consult the agency ethics official (JAG).

## **Confidential Financial Disclosure Reports**

### **Purpose**

Certain employees in grades at or below GS-15, 0-6 or comparable pay rates are required to report their financial holdings to avoid instances of conflict-of-interest. Examples include contracting, procurement, administering licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities or law enforcement. This reporting is to ensure DoD is in compliance with the rules established by the Office of Government Ethics. Designated employees must file a Form OGE-450, Confidential Financial Disclosure Report, or OGE 450-A, Confidential Certificate of No New Interests.

### **Supervisor's Role**

When you are informed that one or more of your employees must complete the OGE-450, you must ensure that they do so. The OGE-450 is confidential, so you may not review this form. Employees must complete the form online through the Financial Disclosure Management (FDM) system.

# Public Financial Disclosure Reports

## Purpose

DoD Officers O7 and above are required to report their financial holdings on Form SF-278, Public Financial Disclosure Report, to avoid instances of conflict-of-interest. This practice is to ensure that DoD is in compliance with the rules established by the Office of Government Ethics and Federal law.

## Supervisor's Role

When you are informed one or more of your employees must complete the SF-278, you must ensure they do so. You are not required to review or sign the report.

Employees are required to file the SF-278 online and must do so within 30 days of entering a position, no later than May 15 annually and within 30 days of termination from employment.

# Political Activity

## Purpose

The Hatch Act Reform Amendments of 1993 authorize covered Federal employees to participate actively in partisan political activities on their own time and away from the Federal workplace. Significant restrictions, principally in the area of fundraising and the solicitation of political service, remain for these covered employees even during non-duty hours. The reform provisions do not extend to military members. These employees remain subject to additional severe restrictions as under prior law.

## Supervisor's Role

As a supervisor you are responsible for providing advice, guidance and appropriate referral to employees regarding political activity restrictions. Any questions concerning this activity should be referred to the agency ethics official (JAG) and/or HRO for guidance. See also Political Activity - The Hatch Act.

# Post-Employment

## Purpose

Employees should be aware that several restrictions are imposed on Federal employees once they leave the Government. None of these post-employment restrictions prohibit a Federal employee from going to work for any non-Federal employer after leaving the Government. The only restriction is on what the Federal employee can do for that employer. The main post-employment restriction that applies to all employees is a permanent ban on "Switching Sides," i.e., communicating or appearing before the Government on behalf of their new employer or anyone else regarding specific party matters in which they participated personally and substantially during their Government service. Another restriction that applies to supervisors is a two-year ban on matters that were under their official responsibility.

## Supervisor's Role

As a supervisor you should be familiar with the post-employment restrictions and ensure the agency ethics official (JAG) appropriately counsels employees if necessary.

## Misuse of Position

### Purpose

All employees are required to adhere to the ethical standards that relate to the use of public office for private gain, the use of nonpublic information, the use of Government property and the use of official time. If a breach of any of these occurs, disciplinary action may be taken.

### Supervisor's Role

As a supervisor your role is **threefold**: **(1) you may not** misuse Government resources or information yourself, **(2) you may not** ask an employee to misuse Government resources or property and **(3) you must report** all occurrences of misuse of Government resources or information among your employees.

**If misuse of a position occurs, you must report it. Misuse of position may fall into any of these four categories:**

- Use of public office for private gain.
- Use of nonpublic information.
- Use of Government property.
- Use of official time.

**To ensure proper handling of these violations, report all instances of misuse of position to your supervisor and then work with your HRO Specialist to administer appropriate corrective or disciplinary action.**

## Use of Government Property

### Purpose

All employees have the responsibility to protect and conserve Government property. They may not use it or allow it to be used for purposes other than those that are job-related. Applicable property includes, but is not limited to computers and computer networks, communication devices, motor vehicles, office supplies, telephones, fax machines, maintenance equipment and facilities.

### Supervisor's Role

As a supervisor you have a primary responsibility to ensure Government property is used only for official Government purposes. If a breach occurs by one of your employees, you must take appropriate corrective or disciplinary action (see Conduct-Based Actions). If a breach occurs from someone other than your employees, you are responsible for reporting it to the appropriate management official so action can be taken.

# Disciplinary Action

## Purpose

When an employee engages in misconduct or violates the Standards of Conduct, appropriate corrective action should be taken. Examples of unacceptable conduct include absence without approved leave, failure to follow supervisory instructions/orders, misuse of Government property, falsifying a travel voucher, etc. (For more information on Standards of Conduct, see the Ethics Section of this guide.)

## Supervisor's Role

As a supervisor it is your duty to take steps to correct an employee's misconduct and you should do so as soon as possible. In addition to maintaining documentation of the inappropriate behavior, you must work with your Labor and Employee Relations Specialist to decide on and administer the appropriate action. The action taken depends on the severity of the misconduct and the penalties issued for similar offenses. In most situations you will pursue a "progressive" course of action.

When you take corrective measures for a conduct problem, you will normally pursue what is called a progressive course of action (i.e., progressive discipline). Progressive discipline begins with relatively minor actions such as documented counseling, but can go so far as to remove the employee from Federal service. There are some acts of misconduct so serious that immediate removal or demotion is initiated without first issuing documented counseling or reprimand. Examples of such offenses include, but are not limited to acceptance of an illegal gratuity (bribe), making threats of physical harm, excessive AWOL, sexual harassment, theft or misuse of Government property or making false entries on reports, vouchers or applications. Progressive actions ensure that the employee is given adequate notice of the problem, identify what the employee must do to rectify it and state the consequences if they do not correct or cease the inappropriate conduct.

### Progressive actions are:

- Counseling (recorded on NGB Form 904-1).
- Oral Admonishment/Warning (recorded in the 904-1).
- Official Letter of Reprimand.
- Suspension of 14 days or less.
- Suspension of 15 days or more.
- Reduction in grade or pay.
- Removal of the employee from Federal service.

# Performance-Based Actions

## Purpose

Performance-based actions are taken when an employee's performance is rated on the Employee Appraisal at the unacceptable level. When an employee's overall performance is unacceptable or is unacceptable in any one critical element, the employee must be given a reasonable opportunity to improve through a Performance Improvement Plan (PIP). The employee must be informed in writing of the performance problems and of the level of performance he/she must meet to be retained in the position. If the employee's performance remains unacceptable, his/her grade may be reduced or the employee may be removed from Federal service.

## Supervisor's Role

Early intervention is critical to resolving performance problems and your Labor and/or Employee Relations Specialist is the best person to assist you. As a supervisor you must discuss the performance problem with the employee and follow specific procedures to give the employee an opportunity to improve. Your Employee Relations Specialist can assist you with guidelines and timeframes.

## Handling Unacceptable Performance

- An employee is given an opportunity to improve when his/her performance in one or more critical elements is rated at the unacceptable level (though an employee must be performing under the assigned standards for at least 120 days). Although it is critical that you contact your Labor and Employee Relations Specialist when you see a potential need to take a Performance-Based Action, the following provides an overview of the process. (Follow TPR 430 for specific guidance.)
- You must notify the employee in writing of the critical element(s) in the job standards that have become unacceptable.
- Clearly describe in a PIP the improvement(s) the employee must make in order to be retained (i.e., to achieve the Marginally Successful level).
- Establish a reasonable period of time for the employee to demonstrate improvement (generally 30 to 90 days). The period allowed must be commensurate with the duties and responsibilities of the employee's position and conform to the provisions of the applicable collective bargaining agreement, where appropriate.
- Inform the employee that, unless the performance of the critical element(s) is improved and sustained at an acceptable level, he/she may be reduced in grade or removed.
- When an employee has been given an opportunity to improve his/her performance, reduction in grade or removal may be proposed if performance is at the unacceptable level at the conclusion of the PIP.

# The Douglas Factors

## Purpose

In general the Douglas Factors are a reference to a decision by the Merit Systems Protection Board that list 12 factors that might be taken into consideration when deciding on the appropriate penalty in any adverse action.

## Supervisor's Role

Labor case law has created an additional criterion test for determining an appropriate penalty for a disciplinary offense - reasonableness. This means any actions that you as a supervisor take against an employee must be "reasonable." Your actions must pass certain tests to ensure they are fair, consistent and equitable. These tests, known as the 12 Douglas Factors were first adjudicated in the Merit Systems Protection Board case, *Douglas v. Veterans Administration*.

*Douglas v. Veterans Administration* established 12 tests to determine reasonableness of any penalty imposed on an employee. Regardless of any action you take as a supervisor you should be able to defend your decision (based upon the criterion of reasonableness) upon final review by an outside arbitrator or agency.

## The Douglas Factors Reasonableness Checklist

When preparing any formal or informal action, use the following 12 checklist factors as a way to assess whether a penalty is appropriate to the offense and to the individual committing the offense.

- **Offense** - What is the nature of the offense and its relation to the employee's job? Was the offense intentional? Was it recurring?
- **Job** - What is the employee's job? Is it safety related? Is the employee in contact with the public? Is the employee a supervisor? Does the employee's job involve handling money?
- **Past Conduct** - Does the employee's past record warrant disciplinary action?
- **Past Job Performance** - Does the employee's past job performance record warrant disciplinary action?
- **Trust** - What is the effect of the offense on the employee's future job performance and your confidence in that employee?
- **Consistent Application** - Is the penalty consistent compared with penalties imposed on other employees for similar offenses?
- **Consistent Severity** - Is the penalty consistent with the FAA Table of Penalties published in FAPM 2635, Conduct and Discipline?
- **Disrepute** - Did the offense damage the reputation of the employee's workgroup or the FAA?
- **Notice** - Was the employee aware his/her actions violated the misconduct laws, rules and regulations? Had the employee been warned about this behavior before? Was this the first offense?
- **Rehabilitation** - Does the employee possess a likely potential for rehabilitation?

- **Mitigation** - Are there any mitigating circumstances like mental impairment, harassment by others or unusual job tension?
- **Deterrence** - Would some lesser penalty be as effective in deterring a reoccurrence of the offense?

It is sufficient to understand these factors force a deciding official to examine any issues that might support a more severe penalty as well as those circumstances that would convince the deciding official to lower the penalty. Your commentary included in the documentary record of this action should specifically address your findings related to these 12 questions. In doing so, you will have established written proof you have considered mitigating factors in deciding on an appropriate penalty for any formal action.

## **Denial of Within Range Increases**

### **Purpose**

If an employee's performance rating of record at the end of the required waiting period is at or above the Fully Satisfactory level, the employee is eligible to receive a Within Range Increase (Reg WRI). If the employee's performance rating is below fully successful, the Reg WRI must be denied. This applies to employees in GS positions only.

### **Supervisor's Role**

As a supervisor you are responsible for informing employees whether they will receive a Reg WRI or if their Reg WRI will be denied. If an employee's summary rating on his/her most recent "rating of record" (i.e., annual rating) is below "fully successful," the Reg WRI must be denied. Because denial of a Reg WRI is a performance-based action, you must document all information that supports the denial of the Reg WRI. You must consult with your HRO Employee Relations Specialist to ensure the decision notice denying the Reg WRI is consistent with regulatory requirements and applicable collective bargaining agreements.

### **When a change in Reg WRI is denied**

- Inform the employee orally and in writing about the determination of an unacceptable level of competence because of his/her rating on the critical element(s). This action should be taken prior to the Reg WRI due date. Describe to the employee how the performance on the critical element(s) must improve to receive the Reg WRI.
- Inform the employee of his/her right to appeal and identify the appeal process.
- Explain that if during the next 52 weeks the employee demonstrates fully successful performance over at least 120 calendar days, the Reg WRI will be granted effective the first pay period after these conditions are met.
- When a negative determination is sustained after reconsideration, the employee will be informed in writing of the reasons and of the right to appeal the decision to the State Performance Appraisal Appeals Board.

### **In a Reg WRI denial letter you should**

State the employee's performance is not at an acceptable level of performance to receive the Reg WRI. Include the date of the most recent performance rating and the date the Reg WRI was due.

- Include examples of performance that support the Reg WRI denial.
- In a PIP describe the requirements that must be met to receive a Reg WRI.
- State that the Reg WRI is withheld and cite 5 CFR 531/532 supporting the denial action.
- State the employee's rights. These rights include the right to request an appeal of the denial of the Reg WRI, the right to be represented in the matter by someone of the employee's choosing (with some restrictions) and the right to be granted official time to review the performance rating(s) on which the negative determination was based.
- State the time limit for requesting reconsideration of the Reg WRI denial. State that in order for the Reg WRI to be granted, the employee must perform at an overall fully successful level on all critical elements of the performance standards.
- Provide the name and telephone number of the HRO Employee Relations Specialist who can assist the employee if they have questions or concerns you cannot address.

Contact your HRO Employee Relations Specialist for assistance.

## **Technician Trial Period**

### **Purpose**

When technicians are hired they are placed on a one-year trial period. During this time employees are evaluated to see if they are suitable for continued Federal service and capable of meeting the needs of the position for which they were hired. (If an employee is terminated because of misconduct or work performance problems during this probationary period, the employee has very restricted appeal rights.)

### **Supervisor's Role**

It is your job as a supervisor to maintain complete documentation of the employee's performance and conduct during the trial-period because only employees who are performing at least at the fully successful level and who demonstrate acceptable conduct and leave usage should be retained. If any performance, conduct or leave abuse problems develop, you should notify your HRO/ERS.

### **During the employee's probationary period you should**

- Discuss performance or conduct problems with the employee as they occur.
- Keep thorough and accurate documentation of all discussions.
- Follow up all conversations between you and the employee with a written record of discussion with the employee, including a statement of the problem, proposed solution and time lines. The employee should receive the original document and you should retain a copy for your records.

Contact your HRO Employee Relations Specialist for assistance with performance, leave or conduct problems as soon as possible, but no later than 90 days before the end of the trial period.

# Administrative Grievances

## Purpose

All Federal agencies are required by law to establish an administrative grievance system for all employees not covered by a collective bargaining agreement. This grievance system provides employees with the opportunity to receive an objective review of individual or group complaints regarding work conditions, employment decisions, etc.

## Supervisor's Role

If you receive a grievance, you should ensure you are the appropriate official to answer the grievance, the grievance is timely and the grievance describes the issues and the remedies sought.

Grievance rights and procedures ensure an objective review of employees' complaints. Employees who believe they have been unfairly treated have the right to present their written grievances for consideration and decision. Employees may file grievances on their own behalf and can be advised by and/or represented by a representative of their own choosing.

**If a grievance is filed** to seek review of an action you took, you should make a good-faith effort to resolve it within appropriate time frames. The following are some guidelines to follow if you receive a grievance. (Consult your HRO Labor Relations Specialist for advice/assistance on grievance handling.)

- Check to see that the grievance seeks review of an action you took.
  - If not, the grievance must be promptly returned to the grievant or transmitted to the supervisor who took or failed to take the action about which the employee is dissatisfied. In most cases that person is the employee's first-level supervisor.
  - For grievances about either a vacancy selection under the merit promotion procedures or a decision made in the HRO, the official is the Human Resources Officer.
- Check to see the grievance is timely. It must be within 15 workdays following the action being grieved or the date the employee became aware of the act being grieved.
- Check to see if the grievance contains a sufficiently detailed description of the issue(s) being grieved and the basis for the grievance.
- Check to see the grievance states the specific relief being sought. The remedy requested must directly and personally benefit the grieving employee. A grievant may not request the action be taken against another person.
- If all of this information is present, you must issue a written decision on the matter IAW the Labor Management Agreement. Grievance responses should be timely unless an extension is sought.
- In your written decision, you must inform the employee they may present the grievance to a higher-level supervisor if the employee wants to seek review of the supervisor's decision. Review by The Adjutant General exhausts the grievant's administrative remedies under the grievance procedure.

# Negotiated Grievances

## Purpose

Employees who are covered by a collective bargaining agreement may exercise their right to file a negotiated grievance. A grievance is usually defined as a complaint of an employee concerning a claimed violation or misapplication of the collective bargaining agreement or any law, rule or regulation affecting the employee's conditions of employment.

## Supervisor's Role

If you are presented with a grievance, you must adhere to the specifications of the collective bargaining agreement. In general, you must acknowledge, investigate and respond to the grievance. You should also immediately contact the HRO Labor Relations Specialist to obtain information and guidance.

## Conduct Management – Disciplinary and Adverse Actions Quick Tips

**The LRS/ERS must ensure supervisors know and perform their role**

### Supervisor's role (with LRS/ERS assistance)

- Ensure workers know expected behavior.
- Ensure they know consequences of unacceptable behavior.
- Respond to ALL cases. Bring to technician's attention immediately.
- Remove names/personalities to minimize bias. Focus on problems - not the person.
- Initiate all disciplinary and adverse actions.

### Supervisors must (with LRS/ERS assistance)

- Contact HRO/ERS or LRS prior to issuing proposed disciplinary or adverse actions.
- Become familiar with NGB TPR 752 – Disciplinary and Adverse Action Regulation.
- Receive HRO/ERS or LRS approval prior to issuing original decisions on disciplinary or adverse actions.
- Review proposed penalty with the deciding official.
- Use the templates provided as guidelines for disciplinary or adverse actions.
- Review the labor/management agreement articles on discipline and adverse actions.
- Involve the Union – If the employee declines union representation, you can ask the employee to put the declination in writing.

**“Do not forget Weingarten Rights”**

**“Specificity is the key to progressive discipline and will prevail under appeal”**

**Sample Letter of Reprimand (ANG Letterhead Format)**

20 October 2015

MEMORANDUM FOR SMSGT Justin Doe

FROM: SMSGT Brandon Dunn Specialist Section Supervisor

SUBJECT: Letter of Reprimand

1. On or about 25 May 2012 at Whiteman AFB you failed to obey a lawful order given you by Capt. Lewis Leonard, (witnessed by CMSgt Brad Dunkin) your superior officer, to ensure technicians were not released early without being in leave status during the liberal leave day. To which you have admitted freely. This is Insubordination and in direct violation of TPR 752 A-5.
2. You are hereby reprimanded. There is no excuse for willfully disobeying the lawful order of a superior and it does not matter whether that superior is a commissioned or noncommissioned officer. You are not in a position, nor do you have the authority, to evaluate orders and select which orders you choose to obey. A military organization is able to function effectively only when there is discipline and respect for authority. Your actions on 25 May were undisciplined and flouted military authority. I will not tolerate disobedience from any member of my Flight. You would be wise to carefully consider the concepts of discipline and respect if you are to have any future in the Missouri Air National Guard. I encourage you to reevaluate your judgment and modify your behavior accordingly.
3. Should personal problems be contributing to your misconduct, the Employee Assistance Program is available to you for appropriate consultation or referral. If you desire assistance with your problem, you should contact the Missouri Federal Employee Assistance Program Coordinator, TSgt Michael Marsden at DSN: 555-9854 or commercial: 573-638-9854.
4. This letter of reprimand constitutes the first offense for failure to follow supervisor's instruction and insubordination. Continued offenses of this type may result in a suspension or removal. At the discretion of the supervisor this reprimand will remain on file as a temporary document in your personnel folder for a period of up to one year from the date of this memorandum. If you so desire, you may submit a rebuttal to me. If you so desire, this letter of reprimand may be grievable through the negotiated grievance procedure. The HRO point of contact for procedural assistance in disciplinary actions is 1LT Rachelle Thomas at DSN: 555-9500 x 37148 or commercial: 573-638-9500 x 37148.

Brandon Dunn, SMSGT, MoANG  
Specialist Section Supervisor

AUTHORITY: 10 U.S.C. § 8013. PURPOSE: To obtain any comments or documents you desire to submit (on a voluntary basis) for consideration concerning this action. ROUTINE USES: Provides you an opportunity to submit comments or documents for consideration. If provided, the comments and documents you submit become part of the action. DISCLOSURE: Your written acknowledgement of receipt and signature are mandatory. Any other comments or documents you provide are voluntary.

1st Ind to SMSGT Brandon Dunn 12 June 2012 LOR

SMSGT Justin Doe

12 June 2012

MEMORANDUM FOR SMSGT Brandon Dunn

I acknowledge receipt of this memorandum at \_\_\_\_ hrs on \_\_ June 12. I understand I have three (3) workdays to provide a response, and that I must include in my response any comments or documents I wish to be considered concerning this letter. My signature below is not agreement with the content, only acknowledgement that I have received a copy of it.

Justin Doe SMSGT, MoANG

2d Ind, SMSGT Rod Miller

15 June 2012

Member (did)(did not) provide written matters in response to this letter.

Rod Miller SMSGT, MoANG  
Specialist Section Supervisor

Sample Proposed Adverse Action Letter – (ARNG Letterhead Format)

AAFA

11 September 2012

MEMORANDUM FOR SGT. Ime Problem, AAFA

SUBJECT: Notice of Proposed Adverse Action

USE TPR 752 for guidance in discipline and adverse actions and <b>ALWAYS</b> seek HRO/ERS/LRS assistance when contemplating disciplinary actions
--

1. This is notification that I propose to (suspend and/or change to lower grade or remove) you from your position as (title and grade of technician position). The cause for this action is (a complete explanation of the cause {or offense} including the who, what, when and where. {Include all separate charges such as AWOL and misuse of a government vehicle, but not offenses of different severity for the same action such as AWOL, failure to follow leave procedures and unexcused tardiness}).
2. I propose to (suspend you for \_\_\_ number of days, reduce you to \_\_\_\_ grade, step\_\_\_\_, or remove you from your technician employment). {In removal cases add} This letter constitutes your 30 day notice of removal.
3. The witnesses known to me are (names and positions). You are entitled to interview them, and any other employees or military members who may have relevant information, if they are willing to be interviewed. You may arrange interviews on your own or with my assistance. I have enclosed all documents that I have relied upon for your use. Or: You may review and copy the documents I have relied upon by making arrangements with \_name\_ at\_location\_. {NOTE: the period for the technician to reply does not start until the supporting documents are made available to the technician}.
4. You have the right to reply to this proposed action letter orally, in writing, or by both methods to Name, address and contact information who will receive your reply(s) and will issue the original decision letter after the period for reply has ended. You will be granted amount of time, hours or days of excused absence to prepare your reply. Arrange for the use of this time with your immediate supervisor. For your information and guidance, I have attached a copy of HRO Form 752-1, which explains in detail your reply rights regarding this Notice of Adverse Action.
5. The Human Resource Office (HRO) has been consulted on the issuance of this letter and name, and contact information of the HRO is available to answer your procedural questions. This HRO member is not your representative.
6. After the period for your reply has ended, name, address and contact information will issue the original decision letter. If you require more time to reply, you must request an extension from the original decision maker in writing, providing the reasons for the extension and the period of time the extension is requested for. This request must be received by the original decision maker before the end of the reply period. The original decision maker may grant all, a portion, or none of this extension request.

7. Should personal problems be contributing to your conduct or performance problems, the Employee Assistance Program (EAP) is available to you for consultation and appropriate referral. If you desire assistance with your problems, you should contact the Missouri Federal Employee Assistance Program Coordinator, TSgt Michael Marsden at DSN: 555-9854 or commercial: 573-638-9854

FULL NAME ALL CAPS  
RANK, BRANCH ALL CAPS  
AAFA Supervisor

**By signing below, I am only acknowledging receipt of this proposed Notice of Adverse Action:**

\_\_\_\_\_  
Technician Signature – SGT Ime Problem

\_\_\_\_\_  
Date

**REPLY RIGHTS - PROPOSED NOTICE OF ADVERSE ACTION**

You have the right to reply to this proposed adverse action in writing. Should you elect to reply to this proposal, you have the right to be represented by an attorney or other representative (at no cost to the government) of your choice. Your written reply must be submitted to the **Deciding Official** whose name, address and telephone number appear below:

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone: Comm:** \_\_\_\_\_ **DSN:** \_\_\_\_\_

You may make arrangements for an oral reply by contacting the Deciding Official at the telephone numbers listed above. The Deciding Official must receive your written and/or oral reply **NOT LATER THAN** \_\_\_\_\_.

You may request an extension of this deadline by providing your reasons, in writing (prior to the above date), to the Deciding Official who will either grant or deny your request. Full consideration will be given to any reply you submit.

You will be allowed up to eight (8) hours of excused absence to review the material relied on to support the reasons for the proposed adverse action, secure affidavits and prepare a reply to this notice. You should arrange with your supervisor for the use of official time. This official time may be extended if you submit a written request to your immediate supervisor stating your reason for the extension. You will be issued a written original decision from the Deciding Official as soon as possible after (a) Your reply is received by the Deciding Official or (b) you do not reply by the date indicated above.

Should personal problems be contributing to your conduct or performance problems, the Employee Assistance Program (EAP) is available to you for consultation and appropriate referral. If you desire assistance with your problems, you should contact the State Program Coordinator, TSgt Michael Marsden at 573-638-9854 or DSN 555-9854.

You may review the material relied upon to support the proposed adverse action by contacting the Deciding Official or the State Human Resource Office. You may contact 1LT Rachelle Thomas in the State HRO for procedural assistance, alternatives available and reply rights. You may telephone him/her at Comm: (573) 638-9500 x 37148 or DSN: 555-9500 x 37148.

HRO Form 752-1  
October 2014

## Sample Original Decision to Proposed Adverse Action Letter – ARNG Letter Format

JFMO-SMT-SMMO

12 September 2014

MEMORANDUM FOR SGT KENNETH LUCK

USE TPR for guidance in discipline and adverse actions and **ALWAYS** seek HRO/ERS/LRS assistance when contemplating disciplinary actions

SUBJECT: Original Decision Letter of Proposed Adverse Action

1. On date, Major John Smith proposed that you be removed from National Guard technician employment. I have decided that there is (cause for your removal, or cause for taking adverse action but with some lesser specified penalty, or not cause for taking adverse action).
2. This action will be effective on date. (Note: for removals it cannot be effective sooner than the next workday after 30 days from the proposed action letter.)
3. I have considered your reply(s) of date(s). In your reply(s) you raised the following points or issues (summarize the substance of the technician reply(s)).
4. I have decided upon this action because (describe the reasons that support the imposition of whatever adverse action was imposed. The reasons for finding each cause must be spelled out, and reasons for not finding the issues raised in the technician's reply(s) and any Douglas Factors applied to the action should be included.)
5. The Human Resource Office (HRO) has been consulted on the issuance of this letter and Name, and contact information of the HRO is available to answer your procedural questions on your appeal rights. This HRO member is not your representative.
6. You have the right to appeal this original decision. You may request either an appellate review, an administrative hearing or advisory arbitration. You may not request multiple methods of appeal. The appellate review is accomplished by the State Adjutant General without the involvement of a NGB hearing examiner. This appellate review involves a review by the State Adjutant General of all pertinent records including the reply(s) of the technician and any documents submitted with the appeal. In an administrative hearing, a NGB hearing examiner from another State will gather all available and relevant facts through the administrative hearing process. After the hearing process, the NGB hearing examiner will issue a report of findings and recommendations to the State Adjutant General. Advisory Arbitration involves contacting the Federal Mediation and Conciliation Service who will send an Advisory Arbitrator. Article 31 of the LMA is to be followed when dealing with Advisory Arbitration. The Advisory Arbitrator will issue a decision that is advisory in nature only and not binding on the Employer. The Adjutant General will consider his decision and render the final decision. In all methods of appeal the final decision on appeal is issued by the State Adjutant General. You can appeal by sending a written notice to the HRO

specifying which method of appeal you request. This request must be postmarked no later than 20 days after the date of this letter, or emailed to the HRO no later than 20 days from the date of this letter. If a request for extension of this appeal period is requested, such request is directed to the State Adjutant General and must be received within the 20 day period, and the reasons for the request must be included. The State Adjutant General will decide if the requests for extension should be granted or not.

For your information and guidance, I have attached a copy of HRO Form 752-2, which explains in detail your reply rights regarding this Notice of Adverse Action.

FULL NAME ALL CAPS  
RANK, BRANCH/MOS  
SSMS, Western District

**I acknowledge receipt of this proposed Notice of Adverse Action:**

\_\_\_\_\_  
Technician Signature – SGT Kenneth Luck

\_\_\_\_\_  
Date

## **APPEAL RIGHTS – ORIGINAL DECISION OF ADVERSE ACTION**

If you consider this adverse action improper, you may appeal the decision by requesting an Appellate Review by either The Adjutant General or an Administrative Hearing, but not both.

The Appellate Review involves an overall review of the official adverse action case file maintained in the Human Resources Office (HRO), together with any additional information you may wish to provide.

An Administrative Hearing (must be requested by the Association of Civilian Technicians) affords you the opportunity to have a third party gather all available facts through an administrative hearing and then provide findings and recommendations to The Adjutant General, who will then issue the appellate decision.

Should you elect to appeal the decision, you have the right to be represented by an attorney or other representative of your choosing.

Your appeal must be in writing stating your reasons for contesting this action together with such proof and pertinent documents as you may desire to submit. The appeal should be addressed as follows:

**The Adjutant General  
Human Resources Office  
Attn: 1LT Rachelle Thomas  
2302 Militia Drive  
Jefferson City, MO 65101**

**Your appeal must be received by (dd--mmm--yyyy): \_\_\_\_\_.**  
Consideration will be given to extending this date if you submit a written request prior by the above date to The Adjutant General stating your reasons for desiring the additional time.

The Adjutant General will render the final decision as soon as possible after the appellate review has concluded or after review of the third party's report and recommendation. A final decision by The Adjutant General will cancel the adverse action, sustain it or substitute a less severe penalty. The right to appeal extends no further than The Adjutant General of Missouri.

The HRO Labor Relations Specialist can provide information regarding procedural assistance and appeal rights. 1LT Rachelle Thomas may be contacted at commercial (573) 638-9500 x 37148.

HRO Form 752-2  
October 2014

# Frequently Asked Questions (FAQs)

## General Ethics and Related Topics

**Q: May I accept a gift from someone outside the Government that I do business with?**

**A:** Unless it is an exception, you may not ask for or accept a gift from anyone who is giving it because of your Government job. You may, however, accept a cup of coffee (which is not considered a gift) or an occasional lunch. Even though acceptance may be permissible under an exception, it is always appropriate and frequently prudent to decline a gift offered because of your job.

**Q: May I accept a gift from or give a gift to my boss?**

**A:** You may accept a gift from your boss, but the general rule is that you cannot give, make a donation to or ask for contributions for a gift to your boss or other superior. There are exceptional circumstances for special, infrequent occasions such as a birthday, marriage, illness or an occasion that ends the employee-boss relationship, such as retirement, resignation or transfer.

**Q. May I collect money for a group gift for my boss?**

**A:** You may if it is for one of the special, infrequent occasions, however, the contributions should be nominal and on a strictly voluntary basis. It can never be a cash gift.

**Q: May I give or receive a gift from a fellow employee?**

**A:** Yes, unless the fellow employee earns less pay and/or the person giving the gift is not a subordinate and/or the gift is based on a strictly personal relationship.

**Q: What creates a conflict-of-interest?**

**A:** Circumstances in which your Government works may benefit you or your family personally or may affect individuals or organizations that you have some connection with outside your Government job.

**Q: How is a conflict-of-interest resolved?**

**A:** The agency can often reassign the job to another employee; however, if it means you cannot do the job the Government hired you to do, you may have to get rid of the interest that is causing the conflict.

**Q: Must I obtain approval for work outside the Federal Government?**

**A:** It depends on what you do and for whom you do it. Generally, activities such as teaching, speaking, writing, professional and consultative services, outside private practice, service on boards or committees or other activities that specifically employ the general professional expertise related to your responsibilities require advance approval.

**Q: What types of outside work or activities don't require approval?**

**A:** Memberships in charitable, religious, social, fraternal, recreational, certain public service, civic or similar non-business organizations need not be approved.

**Q: I gave a speech last week and the organization I spoke to sent me an honorarium. May I keep it?**

**A:** If you spoke as part of your official duties, you may not keep the honorarium and you may not donate it to a charity. However, if you received advance approval for the activity as outside work, you may keep the honorarium.

**Q: I am a member of a professional society. Do I need approval?**

**A:** You are encouraged to participate in professional societies, but participation beyond ordinary membership must be approved in advance.

**Q: Why am I required to file a Confidential Financial Disclosure Report, OGE 450?**

**A:** Your agency ethics official (JAG) or U.S. Property and Fiscal Officer has determined the nature of duties of your position may involve a potential conflict-of-interest. Examples include contracting, procurement, regulating/auditing non-Federal entities and other activities having a substantial economic effect on non-Federal entities.

**Q: Am I allowed to participate in political activities?**

**A:** The Hatch Act Reform Amendments of 1993 authorize certain covered Federal employees to participate actively in partisan political activities on their own time and away from the Federal workplace. These activities include assisting in voter registration drives, attending political fundraising functions, serving as an officer of a political party, organization or club and campaigning for or against candidates.

**Q: I am also a military member. Do the Hatch Act Reform Amendments of 1993 apply to me?**

**A:** No, you may not under any circumstances take an active part in partisan political management or campaigns. You are subject to the standards in the original version of the Hatch Act and the standards set forth in DoD 5500.7-R, Joint Ethics Regulation.

**Q: I am interested in leaving the Government and working for a company my agency does business with? May I give the company my resume?**

**A:** You may unless the prospective employer could be affected by projects and other matters you work on for the Government. If the project could affect your prospective employer, you may need to stop working on that project.

**Q: I'm leaving Federal Service to work for a Federal Government contractor. Is there a problem?**

**A:** There could be a problem. You are generally free to go to work for any employer, but you cannot try to influence the Government on behalf of that contractor if you were involved with the contract while you worked for the Government.

For more information on ethics in general, outside gifts, gifts between employees, conflicting financial interests, impartiality, seeking other employment, employee outside activities, employee official duty participation, reporting requirements on financial disclosure (public and confidential), political activity restrictions or post-employment restrictions, contact the agency ethics official (JAG).

For more information on misuse of position, use of Government property or disciplinary actions contact the HRO Labor Relations Specialist.

## **Conduct, Performance and Discipline**

**Q: Must a reprimand be issued before a stronger action, such as a suspension, is taken?**

**A:** No. The specific discipline selected will depend upon a variety of factors. In cases of serious misconduct a reprimand may not be appropriate as a first action.

**Q: Can a supervisor “reprimand” an employee, but elect not to document anything in writing?**

**A:** A supervisor can (and perhaps should) opt to verbally counsel employees for minor offenses of misconduct that have not been a problem previously. If a supervisor chooses this, that action would not by definition be considered a “reprimand.” The technical definition of a “reprimand” is a written document issued to the employee that places the employee on notice of unacceptable conduct, warns the employee not to repeat the misconduct and is filed in the Official Personnel Folder (OPF).

**Q: When an employee is suspended, who selects the actual days the suspension is served?**

**A:** The immediate supervisor.

**Q: What happens if a supervisor does not address misconduct?**

**A:** There is not a “technical” response to this question. In reality, problems related to misconduct rarely correct themselves and more than likely, an unaddressed problem becomes worse and negatively affects the efficiency of the organization. A supervisor may be held accountable for failure to address misconduct.

**Q: When a supervisor develops documentation on an employee about either a performance or conduct problem, does the supervisor have to share that documentation with the employee?**

**A:** The answer is a question: What is the purpose of the documentation? Generally, the purpose of documentation is to send a message to the employee about a performance or conduct issue that has been brought to management’s attention. The most effective approach is to share such documentation unless the supervisor has no intention of using it against the employee in a negative way in the future. Remember, discipline must be timely and any “old notes” may not be useful for disciplinary reasons.

**Q: If an employee’s performance rating is less than fully successful and a Reg WRI is due, may the supervisor “opt” to grant the Reg WRI anyway?**

**A:** No. If an employee’s most current performance rating is not fully successful or better, that employee is not entitled to a Reg WRI. The supervisor must ensure the employee is properly notified of the denial of the Reg WRI in accordance with Agency procedures. It is not enough to rate the employee and tell the employee verbally.

**Q: May a Trial Period employee be terminated even if there is little or no documentation on a conduct or performance problem?**

**A:** Generally, yes. However, supervisors have the responsibility to effectively counsel all employees, including Trial Period employees, when problems regarding performance or conduct occur. Such counseling is typically in writing and provides a useful record for the employee and management to ensure optimal communication. If supervisors follow this strategy, problems resulting from insufficient documentation should be rare. If documentation about a problem is less than adequate, the nature of the concerns about the employee should be thoroughly examined to determine if termination is the appropriate action.

Before taking a disciplinary or a performance-based action and for information on denying Reg WRI and employee trial periods contact Labor Relations Specialist.

## Grievance Procedures

**Q: If an employee is still dissatisfied after receipt of a response from the second level supervisor (in an administrative grievance), what further action can be taken?**

**A:** Technically, the administrative grievance procedure is over at the conclusion of The Adjutant General's response, if so desired.

**Q: If a supervisor receives a grievance from a subordinate employee, doesn't that reflect negatively on the supervisor?**

**A:** The fact that an individual employee has exercised a right to formally present a grievance should not negatively impact a supervisor and the supervisor should not view such an act as personal. Supervisors should be concerned about the issues the employee has presented via the grievance process and take an active role in addressing those issues.

**Q: If a grievance is "settled," doesn't that mean management did something wrong? Why else would there be a settlement?**

**A:** A settlement is an agreement between management and the grievant in which both parties have agreed to certain actions and by this agreement, they agree the grievance is resolved. A settlement of a grievance should be viewed as positive and effective as both parties voluntarily agree to the provisions. It is not always possible to settle a grievance in this way.

**Q: Can a bargaining unit employee "choose" to use the administrative grievance procedure instead of the negotiated grievance procedure?**

**A:** No. Bargaining unit employees must use the grievance procedure in the applicable collective bargaining agreement unless exceptions are otherwise allowed by that agreement.

For more information on administrative grievances or negotiated contract grievances, contact your servicing Labor Relations Specialist in the HRO.

For more information on Conduct, Performance and Discipline, contact your HRO Labor and Employee Relations Specialist.

**SECTION 6:**

**EQUAL EMPLOYEE  
OPPORTUNITY,  
LABOR RELATIONS  
AND  
PARTNERSHIP**

# **EQUAL EMPLOYMENT OPPORTUNITY LABOR RELATIONS AND PARTNERSHIP**

## **EEO Objectives**

### **Purpose**

The objective of the Equal Employment Opportunity (EEO) Program is to provide full and fair employment opportunities for all employees and to provide for the nondiscriminatory treatment of all employees while carrying out their workplace duties. Employees should be offered employment and career advancement opportunities consistent with the DoD Merit Promotions and Placement Program (based on performance and abilities).

### **Supervisor's Role**

As a supervisor you are involved in virtually all of the decisions that directly affect the success or failure of your component's EEO program. You fill vacant positions and make selections for promotions, you approve training and detail employees to other positions. To comply with EEO goals, you should be familiar with EEO objectives, programs and complaint issues. For further advice and guidance, call the State Equal Employment Manager (SEEM) in HRO.

## **EEO Special Emphasis Programs**

### **Purpose**

Many different EEO Special Emphasis Programs exist within DoD. These programs assist supervisors by providing resources that support EEO goals. These programs also seek continued progress with respect to the representation of women and minorities in the agency, as well as increases of both women and minorities in managerial, supervisory and policy-making positions.

### **Supervisor's Role**

As a supervisor you should utilize these resources to assist you in maintaining a workplace free of discrimination. EEO programs can assist you in supporting the principles of affirmative employment and equal employment opportunity, specifically in implementing measures to increase the representation of women and minorities in DoD's workforce.

### **EEO Special Emphasis Programs**

- Black Employment Program.
- Federal Women's Program.
- Hispanic Employment Program.

## **EEO Diversity Initiatives**

### **Purpose**

The objectives of diversity initiatives are to aid in the understanding of the human dynamics that cause problems among people who are different (i.e., race, culture, gender). Diversity goes beyond representation and discrimination; diversity is the understanding of and valuing the differences people bring to the workplace. Diversity is what makes each individual unique: work experience, education, strengths or weaknesses, upbringing, and even differences in generations. Managing diversity initiatives is an umbrella for all of these related issues and it enhances rather than diminishes these efforts. The “new norm” is to resist thinking about diversity as compliance-driven and embrace it as mission essential. All members of our organization deserve the same opportunity to succeed and to become the very best possible. Our goal must be to foster a workplace environment that ensures we get the very best from each member by effectively leveraging individual strengths and talents to accomplish the mission of our organization.

### **Supervisor’s Role**

Managing diversity is a comprehensive managerial process for developing an environment that works for all employees. It is, by necessity, a long-term effort that will impact the entire organization. While supervisors are charged with leading this initiative, every employee is an emerging leader who shares responsibility for ensuring that individual talents are recognized and applied toward mission accomplishment. As a supervisor you should develop a clear vision and objectives that are understood and agreed upon by all initially involved. Motivate and support groups to embrace the initiative by emphasizing benefits.

## **Complaints of Discrimination**

### **Purpose**

Federal law prohibits discrimination against Technicians or applicants because of their race, color, religion, sex (including sexual harassment), national origin, age, non-disqualifying handicap or reprisal. Employees who want to file a complaint under the Equal Pay Act can now use the same system provided for other complaints of discrimination under Title 29 Code of Federal Regulations, part 1614.

### **Supervisor’s Role**

As stated earlier, as a supervisor you are involved in virtually all of the decisions that directly affect the success or failure of Missouri and DoD EEO Programs. The most important thing for you to remember about the EEO complaints process is that it is NOT your job to decide whether a complaint has merit or meets the criteria established by law and regulation. Your job is to support your employees. If you have a technician who feels he or she has been discriminated against, encourage them to seek out an EEO Counselor or the State Equal Employment Manager (SEEM). You set the tone for job satisfaction and equal opportunity among employees in your organization.

## **EEO Complaint Issues**

### **Purpose**

A technician who feels he or she has been treated unfairly can file a complaint based on issues such as promotion, reprimand, termination, job training, assignment of duties, awards, reassignment, denied within-grade increases, reprisal, sexual harassment, etc.

# Complaint Process

## Purpose

A Federal technician or an applicant for a technician position who believes he/she has been discriminated against can initiate a complaint of discrimination by contacting either an EEO counselor or the SEEM within 45 days of the discriminatory occurrence, or when they became reasonably aware of the discriminatory occurrence. The informal process is managed by the SEEM. The formal process begins once the complainant decides to file a formal complaint. For more information on the formal and informal processes, see the overviews on the following pages.

## Supervisor's Role

Federal EEO regulations require you to cooperate fully with EEO counselors and investigators in the performance of their duties throughout the complaint process. As a supervisor you have the responsibility to make a good-faith effort to understand the complaint process and resolve complaints of discrimination early in the process.

## An Overview of the Informal Complaint Process

- Technicians who feel they have been discriminated against must contact either an EEO counselor or the SEEM/EEO office within 45 days of the discriminatory occurrence, or when they became reasonably aware of the discriminatory occurrence. Failure to meet time limitations may affect the employee's right to file a complaint.
- The technician will meet with the EEO counselor and discuss the situation. If a complaint is pursued the counselor will proceed with following steps.
  - The counselor will gather information by interviewing witnesses of the alleged discriminatory occurrence.
  - The counselor will fill out a counseling report.
  - The counselor will contact the alleged offender and/or responsible management official to discuss the complaint. Attempts to resolve the complaint will be made at this time. The informal process will take from 30 to 60 days if an extension is granted and may be extended up to 90 days if alternative dispute resolution is elected.
  - If the complaint is not resolved at the informal stage, the complainant receives a final counseling report and is advised of his/her right to file a formal complaint with the Adjutant General (AG) representative SEEM within 15 days of the final notice.

## An Overview of the Formal Complaint Process

- The complainant files a formal complaint with the SEEM within 15 days of receiving a final EEO counseling report.
- SEEM then has five days to review the complaint to determine whether all the issues are clearly defined and that all necessary information has been included. The SEEM evaluates the issues and recommends to the AG whether the complaint should be accepted or dismissed, in whole or in part.

- The AG has 10 calendar days from receipt to review the complaint along with the SEEM's recommendation and issue a notice of acceptance or dismissal.
- A notice of acceptance or dismissal is then sent to the complainant.
- Within three calendar days of the AG decision, the SEEM will forward the entire case to NGB for review and assignment to an investigator.
- NGB reviews the case and issues a written notice of their acceptance/dismissal.
- If the case is accepted, NGB will assign an investigator and the SEEM and complainant will be notified.
- Once an investigator has been assigned he/she has 45 days to submit a Report of Investigation and advise the complainant of their right to request a final NGB decision and/or a hearing by the Equal Employment Opportunity Commission (EEOC).

For more detail information on procedures contact the State Equal Employment Manager (SEEM) in the HRO.

## **EEO Counselors**

### **Purpose**

State DoD EEO Counselors perform a vital role as a conduit through which employees and supervisors can resolve various EEO problems and issues. EEO counselors are trained to resolve EEO problems informally and in a timely and appropriate manner. Their duties as an EEO Counselor are usually a collateral duty, but when tasked with a complaint, their duties as the EEO Counselor take precedence over their normal day-to-day activities.

## **Preventing Sexual Harassment**

### **Purpose**

The Equal Employment Opportunity Commission defines sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. Sexual harassment is a violation of Federal law.

### **Supervisor's Role**

The importance of dealing with a sexual harassment complaint cannot be overemphasized. Once you become aware of a sexual harassment situation, you must take immediate and appropriate corrective action to ensure that the harassment ends. Every level of management has a responsibility to provide guidance on DoD's policy on the prevention of sexual harassment. This should be done periodically for the benefit of new employees and as a reminder to current employees.

## **Labor - Management Relations**

### **Purpose**

The Federal Labor-Management Relations Program provides a system for reconciling the management needs of agencies with the needs of employees and their elected representative's desire to have a "say" in differences and disputes that arise in the process. The law asserts labor organizations and collective

bargaining in the civil service are in the public interest and has established labor relations procedures to meet the special requirements and needs of the Federal Government.

## Supervisor's Role

As supervisors and managers you are directly involved in dealing with management, union and employee rights under the law. You make the day-to-day decisions that involve negotiated rules, you communicate directly with employees on a wide range of matters and handle the problems and complaints that arise and you are often involved in making changes and improvements in operational methods that may impact employees' working conditions. It is essential that you understand how to recognize and deal with labor relations situations effectively.

## Basic Rights

The Federal Labor-Management Relations Statute is built on a number of “**rights**” granted to Federal employees, unions and Agency management. The most fundamental rights are those granted to employees. The law gives employees the right to organize themselves into a group called a **bargaining unit** and to select a particular union to represent them in dealing with Agency management. To deal effectively with employees and their union representatives, you must know their rights and yours. These rights are dictated by law in the collective bargaining agreement and in the Code of Federal Regulations.

**Employee/Union Rights** - Federal employees have the right to **join** or **not join** a union or give money (pay dues) to a union without coercion or fear of reprisal. The exclusive union is the **sole** spokesperson for the employees it represents regarding conditions of employment. It is especially important that you **know** and **accept** the **union's role** in **negotiating** and **policing** the collective bargaining agreement and in **representing** employees who bring grievances against the Agency under the negotiated grievance and arbitration procedures.

**Management Rights** - As a member of management you have certain basic rights under the law. In addition to the right of your agency to set the mission, budget, organization, number of employees and internal security making your operation run efficiently.

- Decide who to hire as well as what other personnel actions are needed to assign work to the employees who report to you.
- Determine what performance is required for employees to get the work accomplished, whether employees are measuring up and if not, how performance must improve.
- Make the selection if filling a position from among candidates for promotion or from another appropriate source.
- Take whatever actions are necessary to carry out your operation during emergencies.

The **law** spells out these management rights, but the **procedures and impact** on employees of exercising them must be **negotiated** if the union requests such negotiations. For example, in filling a position you may select from “among properly ranked and certified candidates for promotion or any other appropriate source.” The collective bargaining agreement may prescribe a procedure for ranking and certifying candidates for promotion. **Know** the **collective bargaining** agreement and know your management rights. Use your rights, but use them considerately and properly. **Beware** of **incorrect** collective bargaining agreement interpretations. They may set harmful and costly precedents that prove difficult, if not impossible, to eliminate over the long term. For **interpretation** of collective bargaining agreement language, **contact the** Labor Relations Specialist in the HRO.

## Day-to-Day Operations

At one time or another, you may decide to make **changes** and **improvements** within your organization. Your decision to make a change will bring into play the union's right to become involved only if the change involves what is called the **conditions of employment** of bargaining unit employees. It is important to understand what this term means. Bargaining unit employees' conditions of employment include **two** different general areas: **personnel policies and practices** and other **working conditions**. In general the rules and procedures that prescribe how employees behave or how they will be managed (i.e., leave policies and merit promotions policies) are called personnel policies and practices.

As a rule of thumb **written** rules for managing employees, such as an annual leave arrangement procedure or merit promotion rules, are considered **policies**. **Unwritten** rules, such as an **established pattern** of allowing employees to swap weekend overtime assignments, are usually called **practices**. A **pattern** of doing things one particular way may become an **unwritten rule** (past practice) if allowed consistently for a long period of time with the knowledge and acceptance of union and management. It cannot, however, conflict with any law, regulation, contract provision or management right. Other features and benefits of employees' work environment (i.e., heat, light, air conditioning, parking arrangements, safety conditions, break/rest areas, smoking areas and availability of food) fall under the general heading of working conditions. Taken together the two categories of personnel policies and practices and working conditions make up the conditions of employment of bargaining unit employees.

The most important thing to remember is that a management decision that changes employees' conditions of employment brings the union's rights into the picture and therefore, requires you to follow certain established procedures before effecting your decision.

Your basic right to make changes is **not** open to negotiation with the union; **however**, if your **change** is likely to produce an **impact on the working conditions of bargaining unit employees**, the **union is entitled** to an opportunity to propose ways to deal with the impact and Agency **management is required by law** to bargain about such proposals. For example, if you decide to reorganize and relocate part of the organization to a different part of the building to improve efficiency or reduce costs, that decision is up to management. The decision to reorganize is not open to negotiation because it is covered by the protected management right to determine the appropriate organizational structure. But, if the reorganization/relocation **significantly** changes employees' working conditions, their union has the right to make proposals to deal with the changes. Working out procedures and arrangements for dealing with the impact a management decision has upon employees is referred to as **impact and implementation bargaining**.

A key point to remember is that if the change you want to make is covered by a protected management right, such as reorganization, only the impact and implementation of the change is open to negotiation. On the other hand, if the intended change is not covered by an absolute management right, the proposed change itself is open to bargaining.

## Formal Discussions

The exclusive union has the right to become involved in certain discussions you may have with your employees. These discussions are called **formal discussions**. **In these situations, you are required to make sure the union is allowed to have a representative present.**

A formal discussion consists of a meeting between the agency's representative and one or more employees in the bargaining unit concerning a grievance or conditions of employment. Before having such formal discussions, the union must be provided advance notice and be allowed to attend and participate in the discussion.

The idea behind this requirement is simple. Because the union is responsible for working out and enforcing conditions of employment, it should be allowed to sit in when managers discuss such matters with the employees the union represents. **Conditions of employment** are **negotiated** with the **union**,

Whether or not the employee wants the union to be present at the meeting is not important. The right to attend such meetings is a right given to the union by the Statute. It is not a right that may be waived by individual employees.

**Contact the Labor Relations Officer** in the **HRO** and/or **consult the collective bargaining agreement** for the appropriate procedures for union notification.

### **Robust or “Spirited” Discussion**

The union representative has a right to comment, speak and make statements. However, the union representative cannot take charge of, usurp or disrupt the meeting. The union representative's conduct must be reasonable, fully understanding there is room for "robust debate" between the parties.

At times, the subject matter of formal discussions may lead both sides to communicate their positions with emotional fervor that is not found in other discussions. If the topic is contentious, it is important for supervisors to state their positions with professional courtesy and respect for their union counterparts. It is hoped union representatives would do the same. What happens if the discussion becomes heated during a formal discussion? Federal Labor Relations Authority (FLRA) case decisions can give managers insight.

It is in everyone's best interest to create a collaborative atmosphere that will lead to effective Labor-Management relations. Supervisors are encouraged to do their part in creating a positive atmosphere and always conducting themselves in a professional manner.

### **Weingarten Rights**

Another important **provision** of the **law** is the right of the union to be present when an Agency representative **examines an employee** in connection with an **investigation** known as the **Weingarten Right**. Agencies must annually inform employees of this right. HRO publishes this right every year to comply with this requirement.

Before an investigation becomes a **Weingarten Right** situation, it **must** include **all three** of the following elements:

- An examination of a bargaining unit employee by an Agency representative in connection with an investigation.
- An employee must reasonably believe disciplinary action may result. (It does not apply to the normal day-to-day conversations you have with the employees you supervise involving work techniques or other matters unrelated to discipline.)
- An employee must request representation. An employee's silence concerning representation implicitly waives the right.

**What should you do?** The law gives you several **alternatives** when an employee requests union representation.

- You can simply end the meeting and not call in a union representative.
- You can offer the employee the alternative of continuing the meeting without a union representative or forego having the meeting to arrange for representation. If the employee declines union representation – **OBTAIN the declination IN WRITING!**

- You can temporarily stop the questioning long enough to obtain a union representative and then continue the questioning after the union representative has arrived.

It is important to know that the right of employees to have a union representative present **only applies** in situations in which the discussion could **reasonably** be expected to **lead to discipline** (i.e., letter of reprimand, suspension or removal). Discussions concerning an **employee's performance** even though such discussions could lead to a poor performance rating or performance-based action **do not** bring the Weingarten Right into play. This also includes other routine conversations that do not involve a reasonable fear of discipline.

When discipline is being considered, it is good practice to offer union representation in the beginning to preclude future problems (do not make the employee request it).

## Unfair Labor Practices

The labor relations Statute establishes a procedure by which employees, unions and agencies can **complain about** and **obtain corrective action** for violations of the law. Such violations are called **unfair labor practices** or **ULPs** for short.

As a member of management you may not

- Interfere with, restrain or coerce employees who are exercising their rights under the labor relations program.
- Encourage or discourage union membership by discriminating with regard to conditions of employment.
- Sponsor, control or assist a labor organization.
- Discipline or otherwise discriminate against employees for filing a complaint or petition or for testifying.
- Refuse to consult or negotiate in good faith.
- Fail or refuse to cooperate in negotiation impasse procedures or decisions.
- Enforce a rule that conflicts with the collective bargaining agreement, if the contract was in place before the rule was issued.

If a ULP is discovered, a **remedy** can be ordered to **repair whatever harm** was caused by the violation. In practice most unfair labor practices are filed by the unions against agencies. This is because Agency management has the authority to take or not take action in the course of managing the organization. If the union or employees feel the employer's actions are improper, one way to deal with them is through the ULP process. If the union believes you have taken an action that violates a right provided by the law (i.e., changing a personnel policy or working condition without first notifying and bargaining with the union), it may file a ULP with the **Federal Labor Relations Authority (FLRA)**. Upon receipt of the ULP charge, the FLRA will **investigate**. This investigation normally involves meeting with the person who filed the charge as well as with managers and supervisors who may be involved. You are entitled to representation at any interview with a FLRA agent.

ULPs are sometimes **settled** or in some cases in which there appears to be no basis for finding a violation, the FLRA will suggest the union drop the charge. If the union does not drop the charge as suggested, the FLRA will consider the information developed through its investigation and decide whether to take the matter further or to dismiss the charge. If the FLRA concludes a ULP charge has merit and if it believes

that a violation of the law can be proven, **a formal complaint will be issued**. This action requires the Agency either to settle the matter or to defend itself in a formal hearing before an administrative law judge. If the issue is not resolved, the FLRA will arrange a **hearing** date and will present evidence in an effort to prove the Agency violated the law. Following the ULP hearing the **administrative law judge** issues a **recommended decision** that may or may not find that a ULP has occurred. If neither side files an **exception** (appeal), the recommended decision becomes final. If either side does choose to appeal, the matter goes to the full FLRA for a final decision. If the **FLRA** decides a **ULP has been committed**, it will order certain **remedial actions** be taken. These can include, but are not limited to:

- **Cease and Desist Order and Posting** - The Agency must post a notice signed by TAG ordering it to “cease and desist” (stop) the activity that violates the law.
- **Status Quo Ante Order** - The Agency must return to the status quo (to the way things were before the improper change).
- **Make Whole Order** - This could include restoration of an employee to a position, a retroactive promotion, back pay for improperly denied overtime or other differentials, interest on back pay awards and in some cases even attorney fees for the work performed by the union attorneys in helping to present the ULP case.
- **Bargaining Order** - Order the Agency to negotiate on the matters or proposals involved.

**ULPs are filed against agencies, not individual supervisors. Remedies are not directed at either the manager or the supervisor involved even if a violation of the law is found.** It is an unfair labor practice for **either union or management** to fail or refuse to comply with any provisions of the Federal Labor Relations statute.

Union officials may not:

- Interfere with, restrain or coerce employees in exercising their rights.
- Cause or attempt to cause an Agency to discriminate against employees in exercising their rights.
- Coerce, punish or attempt to make reprisal against a union member to hinder work performance or productivity.
- Discriminate in regard to membership.
- Refuse to consult or negotiate in good faith.
- Fail or refuse to cooperate in impasse procedures or decisions.
- Call, participate in or condone a strike, work stoppage, slowdown or picketing that interferes with agency’s operations.

## **Representation**

A union that has obtained exclusive recognition is entitled to -- and must -- represent **ALL** employees in the bargaining unit fairly and equally, whether or not they are union members (pay dues). Unions chosen by a majority of the employees in a unit to represent all the employees in the unit are granted “exclusive recognition.”

## Union Bargaining Unit

The recognized bargaining units in the Missouri National Guard are:

- Identified General Schedule and Federal Wage System Technicians employed by the Missouri Air National Guard.
- Identified General Schedule and Federal Wage System Technicians employed by the Missouri Army National Guard.

## Positions Excluded from the Union Bargaining Unit

The positions excluded from the bargaining unit in the Missouri National Guard are:

- Management officials.
- Supervisors.
- Technicians engaged in personnel work.
- Confidential Technicians as defined in 5 U.S.C. 7103 and 7112.

## Managing with Cooperation

Our labor-management relationship is important. **Regulations, collective bargaining agreements and personalities account for the variations.** Your treatment of employees and your dealing with their union representatives can foster an **atmosphere of cooperation.** Keeping the union informed of plans affecting employees in the unit and informing the union early can avoid undue friction. Mutual interests, such as job safety, call for close cooperation. The union stewards occupy positions of trust in the bargaining unit. Give them the respect and cooperation necessary to do an effective job. Be as understanding of their position as you expect them to be of yours.

### As a supervisor you should do the following:

- Familiarize yourself with State, DoD and Federal labor-relations policies. Most importantly, be completely familiar with the current collective bargaining agreement.
- Maintain a role of strict neutrality -- neither encourage nor discourage union membership or activities.
- Inform and/or consult, as appropriate, with the union on matters related to employment policies and working conditions and on matters related to establishing, changing and implementing personnel policies and practices affecting one or more bargaining unit members.

Ensure the right of the union to be present when an employee raises a complaint relating to the interpretation or application of the collective bargaining agreement. Promptly bring to the attention of the HRO Labor Relations Office all contacts and dealings with labor organization representatives.

Good labor relations can make everyone's job easier. As a supervisor you are not expected to be knowledgeable of all the fine points of labor relations case law. Contact the Labor Relations Specialist in State HRO for assistance.

# Tips on Communicating and Managing Conflict

## Conflict Resolution and Communication Basic Training

### Attack the Problem Not the Person:

- Define the problem.
- Explore each person's perception of the problem.
- Try to understand and respect each point of view without judging.
- Remember we all come from different backgrounds and different socializations and we must understand and value our diversity – it is our diversity that makes us strong.

### Use Good Communication Skills Including:

- **Listening** – Use “Active Listening.” Let the communicator know you are genuinely interested. Do not interrupt. Let them express why their feelings are important to them.
- **Summarizing** – Paraphrase to let the communicator know what you think they said.
- **Clarifying** – Ask questions when you are unsure of the communicator’s message.
- **Body Language** – You should be calm, relaxed and attentive. Make eye contact and nod occasionally to signify you understand the message.
- **Be Respectful** – Treat everyone with respect. There is not one person who wants to feel judged or personally attacked.

### Concentrate on Interests, Not Positions:

- The position is the outcome you are interested in understanding.
- The interest is why you want that outcome.
- Interests that are involved in conflicts are usually related to our basic needs. When we focus on interests instead of positions we can start to find solutions.

### The Ideal Solution is a Win-Win Among the Five Primary Ways to Settle Conflict:

- **Competition** as on a playing field is an option that always results in WIN-LOSE.
- **Accommodation** where you yield to the other person results in LOSE-WIN.
- **Avoidance** is one of the most common ways to react and results in LOSE-LOSE.
- **Compromise** where you obtain some of what you want is like a WIN-LOSE/LOSE-WIN.
- **Collaboration** is the best, most satisfying and hardest goal to achieve – a WIN-WIN.

## **Collaborate to Solve the Problem Fairly Striving for the Win-Win solution**

- You should identify areas of agreement, define and explore alternatives and select solutions.
- Both sides must be willing to resolve the issue, get to the root of the problem and empathize.
- Hidden agendas, dishonesty or lack of trust will derail your efforts to resolve the conflict.
- A fair solution respects the interests and positions of both sides.

### **More Tips on Conflict Resolution and Communication**

The following tips were paraphrased from various university and public sources freely available for publication.

#### **Working It Out Together**

The first step towards harmony in our work and personal life is to learn how to solve our everyday problems.

- **Conflicts Happen** – Conflicts are a normal part of life. How we deal with these conflicts can make a big difference. Often when people resolve conflicts, one person is a winner and one loses out. This may solve the problem for the moment, but resentment and bad feelings can cause more problems later.
- **Everybody Can Win** – Another way to look at conflicts is to try to find a WIN-WIN solution in which both sides can benefit. In this way conflicts are turned into opportunities to grow and make things better than before. This approach is the cornerstone of "conflict resolution" – one of the most important tools for bringing harmony into our personal lives, our work sections and our organization.

#### **Problem Solving Terms and Tools**

- **Communication** – Conflicts are often caused by problems in communication. One person may have misunderstood what the other person has said. Alternatively, the other person may not have said what they meant to say. Sometimes when we are angry we do not hear what the other person is saying. Sometimes when there is a conflict people do not tell each other, which causes even more conflict. Good communication skills are an important part of resolving conflicts.
- **Listening** – It is important to listen carefully. Your "body talk" sends a message that you are listening. Keeping eye contact, leaning closer, nodding your head when you understand a particular point and ignoring distractions that are going on around you are some of the ways to send the right body messages.
- **Summarize** – When a person is finished expressing a thought, summarize the facts and emotions behind what they have said so they know you have understood what they have said and how they are feeling.
- **Clarify** – Ask questions to clarify or make clearer different parts of the problem to make sure you fully understand the other person's perspective.
- **Good Speaking Skills** – When you speak try to send a clear message with a specific purpose and with respect to the listener. Speak about how you are affected by the problem.

- **Communication Sidetrackers** – Don't interrupt, criticize, laugh at the other person, offer advice, bring up your own experiences or change the subject.
- **Win-Win Options** – An idea or suggestion in which both sides can benefit is called a Win-Win option. The idea should help both sides.
- **Brainstorming** – The first step in problem solving is to come up with as many ideas as possible. This is called brainstorming. During this process, any idea that comes to mind should be expressed and written down. Do not judge whether the ideas are good or bad or even discuss the ideas. Just try to brainstorm with as many solutions as possible.
- **Find a Fair Solution** – Go through the ideas using fair criteria to see which idea might be best. Using fair criteria means to judge each idea with both people's interests in mind. Try to use reason and not emotion to judge an idea, respecting each person's difference in perception.

### More Ways to Practice Conflict Resolution

- **Negotiation** – Negotiation is a communication process in which people try to work out their conflicts in a peaceful way using conflict resolution techniques.
- **Mediation** – Sometimes people who want to work out a conflict just cannot seem to agree on any way to work it out. They may want another person to help them solve their problem. A mediator is a person who helps two sides to work out their problems peacefully. The mediator helps those in conflict to focus on the problem and not blame the other person, to understand and respect each other's views, to communicate their feelings and what each is really saying and to cooperate together in solving the problem. Mediators are peacemakers.
- **Group Problem Solving** – Problems can also be worked out together in a group. Often group problem solvers sit in a circle so that all members are equals. The same conflict resolution principles are used. They focus on the problem not on assigning blame to any person. They take turns sharing their point of view and listening (without interrupting) to all of the other points of view. All members must show respect and not criticize other members or their ideas.

### Ten Step Communication Process. Try these suggestions to get your message across.

- **Talk Directly** - If there is no threat of physical violence, talk directly to the person with whom you have the problem.
- **Choose a Good Time and Place** - Discuss the conflict in a quiet place when you and the other person are not busy or rushed.
- **Plan Ahead** - Think about what you want to say ahead of time. Be able to state clearly what the problem is and how it affects you.
- **Give Information** - For example, say something like, "When your car blocks my driveway, I get angry because I can't get to work on time." Try not to say things like, "You are blocking my driveway on purpose just to make me mad!"
- **Do Not Blame or Name Call** - Blaming and name-calling will only antagonize the other person and make it harder for him or her to understand your concerns.
- **Listen** – Relax during the discussion. Give the other person a chance to tell his or her side of the story completely and try to learn how he or she feels about the situation.

- **Show You Are Listening** - Although you may not agree with what is being said, advise the other person that you hear what he or she is saying and are glad you are discussing the problem together.
- **Talk It All Through** - Once you start, get all of the issues and feelings out into the open. Do not leave out the part that seems too "difficult" to discuss or too "insignificant" to be important. Your solution will work best if all the issues are discussed thoroughly.
- **Work On a Solution** - When you have reached this point in the discussion, *be specific*.
- **Follow Through** - Agree to check with each other at specific times to make sure the agreement is still working. Then really do it.

### **Hints and Tips for De-escalating a Conflict**

- Take a deep breath to stay relaxed.
- Look the other person in the eye with both of you sitting or standing.
- Speak softly and slowly.
- Keep your legs and arms uncrossed.
- Do not clench your fists or purse your lips.
- Keep reminding yourself – "We can find a win-win resolution to this" and remind the other person of this also.
- If necessary, ask for a break to collect your thoughts or release pent-up tension.
- Give "I messages" – Paraphrase what the other person has said, asking for clarification as necessary.
- Watch your language – Words that escalate a conflict are never, always, unless, can't, won't, don't, should and shouldn't. Words that de-escalate a conflict are maybe, perhaps, sometimes, what if, it seems like, I feel, I think and I wonder.
- Really, listen to what the other person is saying with the goal of truly understanding that person's point of view.
- Affirm and acknowledge the other person's position.
- Ask questions that encourage the other person to look for a solution. Ask open-ended questions rather than ones that evoke a yes or no response.
- Keep looking for alternative ideas to resolve your dispute so that both of you have your needs met.

## **What Causes a Grievance? Can Anyone Cause a Grievance Situation? - YES!**

### **General Causes:**

- Labor/Management Relations (reactions between diverse people).
- Self interest (how will this change affect me).
- Authority complex (let authority go to the head or conversely reject all authority).
- Communication barriers (written, spoken and body language).
- Self-Justification (resent having decisions questioned and do everything to justify).
- Gut reactions (reactions without logic may not address built in biases).
- Union attitudes (push agendas or have "get management" attitude).

### **Specific Causes: How Can an Employee, Supervisor or Shop Steward Cause a Grievance?**

- **Employee:**
  - Qualifications do match the job.
  - Personal problems (refer to EAP).
  - Unreliable/antagonistic employees.
  - Linguistic/racial/cultural barriers.
  - Union membership (I am immune to discipline).
- **Supervisor:**
  - Wrong attitude toward the Union.
  - Weak supervisory skills.
  - Unjust discipline.
  - Favoritism and inconsistency.
  - Promises made to employees.
  - Failure to eliminate sources of irritation.
  - Unclear orders/instructions.
  - Failure to keep workforce informed.
  - Failure to dispel rumors.

- Failure to listen and consider employee's viewpoints.
- Incomplete knowledge of the labor contract.
- **Shop Steward:**
  - Incomplete knowledge of the labor contract.
  - Making unwarranted promises.
  - Failure to act on complaints.
    - Showing Favoritism.
    - Failure to set a good example.
    - Playing union politics (stir it up and solve it).
    - Allowing rumors to circulate.

An awareness of the root causes of complaints and grievances will assist you as a supervisor to resolve them at the lowest level or perhaps reduce or eliminate grievances by addressing the root issues. Contact the HRO/LRS for further guidance in dealing with grievance situations.

## **Basic Employee Rights under 5 USC Chapter 71**

### **An Employee Has the Right To**

- Form, join or assist a labor organization.
- Act as a representative of a labor organization.
- Bargain collectively through a labor organization.

**The Bargaining Unit.** Certain employees are excluded from bargaining units by 5 USC 7112 the exclusion are:

- Supervisors/management officials.
- Employees engaged in personnel work (other than clerical).
- Employees working in a confidential capacity for officials who formulate general labor relations policy.
- Employees engaged in intelligence or security work affecting national security.
- Employees investigating or auditing work or conduct of other agency employees.
- Professional employees unless a majority of the professionals vote for inclusion.

**Definition of a Supervisor.** A supervisor under 5 USC 7103 is a person authorized with respect to employees to do at least one of the following.

- Hire, promote, transfer, assign, direct furlough, recall, discipline, suspend, lay off, reward and remove employees and adjust grievances.
- Effectively recommend any such actions if the exercise of such authority requires independent judgment. The number of employees supervised is not a relevant factor in this context.

**Union Rights I/A/W Exclusive Recognition.** 5 USC 71114 states that a labor organization that has been accorded exclusive recognition:

- May negotiate agreements for all employees in the collective bargaining unit.
- Is responsible for representing the interests of all bargaining unit employees whether they are union members or not.
- Must be given the opportunity to be represented at all formal discussions between management and employees concerning grievances, personnel policies and practices or other general conditions of employment.
- Must be given the opportunity to be present at any investigative examination of a unit employee

**(WEINGARTEN RIGHTS)**

- The employee reasonably believes the examination may result in disciplinary action.
- The employee requests representation.

**Formal Discussions Under 5 USC Chapter 71.** Generally, a meeting between management and an employee would be classified as formal discussion when:

- More than one employee is impacted by the decisions reached or more than one management official is present at the meeting or
- The meeting may result in a decision on an employees grievance.
- A meeting would usually not be classified as a formal discussion when
- The meeting is for a "personal counseling" session and does not involve matters affecting general working conditions.
- The discussion is not at a level which could result in settlement of a grievance and there is no potential impact on other bargaining unit employees.

When a meeting is a formal discussion, the union must be afforded an opportunity to be represented.

**Management Rights. Under the law, certain "management rights" exist, which may not be abridged regardless of the contract. 5 USC 7106 reserves the right to:**

- Determine the mission, budget, organization, number of employees and internal security practices of the agency.

- Hire, direct, layoff and retain employees.
- Suspend, remove, reduce in grade or pay or discipline employees.
- Assign work, determine need to contract out and determine the personnel by which operations will be conducted.
- Select and appoint employees from appropriate sources.
- Take necessary emergency action.

Any decision to act in these areas is a sole prerogative of management. However, both procedures for exercising that authority and arrangements regarding affected employees are subject to negotiations.

**Management Unfair Labor Practices (ULPS):** 5 USC 7116(a) states that it is an unfair labor practice for management to:

- Interfere with, restrain or coerce an employee in the exercise of the rights assured by 5 USC Chapter 71.
- Encourage or discourage membership in a labor organization by discrimination with respect to conditions of employment.
- Sponsor, control or otherwise assist a labor organization.
- Discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under 5 USC Chapter 71.
- Fail to cooperate in impasse procedures.
- Enforce rules or regulations in conflict with a prior collective bargaining agreement.

**Union Unfair Labor Practices.** Under 5 USC 7116(b) it is an unfair labor practice for a union to:

- Interfere with, restrain or coerce an employee in the exercise of his rights assured by 5 USC Chapter 71.
- Attempt to induce management to discriminate against an employee in the exercise of his or her rights under 5 USC Chapter 71.
- Coerce or take an economic sanction against a union member as punishment or for the purpose of hindering work performance or productivity of a Federal employee.
- Discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, national origin, civil service status, political affiliation, marital status or handicapping condition.
- Refuse to consult or negotiate with an agency as required by 5 USC Chapter 71.
- Fail to cooperate in impasse procedures.
- Call or engage in a strike, work stoppage, slowdown or picketing which interferes with an agency's operations.

### **Use of Official Time:**

Generally employees representing the bargaining unit are authorized official time to negotiate contracts/MOU's, etc; discuss grievances and training and participate in discussions with management, etc. However, 5 USC 7131 provides the INTERNAL business of a labor organization shall be conducted during the non-duty hours of the employees concerned (i.e., solicitation of membership, collection of dues, elections, newsletter production, etc.).

For guidance on Employee Rights under 5 USC CHAPTER 71, contact the HRO/LRS.

## **Frequently Asked Questions (FAQs)**

### **Equal Employment Opportunity**

**Q: If EEO is available for employees to complain about supervisors, what is available for supervisors?**

**A:** The same complaint process is available for supervisors.

**Q: Am I entitled to a copy of the counselor's report?**

**A:** No. The report is only provided to the complainant.

**Q: Will the EEO counselor let me know what the decision is after counseling is completed?**

**A:** No. EEO counselors do not make a decision on a complaint. They only gather the facts from the complainant, named officials and witnesses, if any.

**Q: If I am named in a complaint, does anything go in my personnel record regarding this matter?**

**A:** If you are found guilty of discrimination, the action taken against you may be placed in your personnel record.

**Q: Each time I make a selection to fill a position, should I anticipate an EEO complaint?**

**A:** No. But, it is always a good idea to retain all data relative to a selection.

For more information on EEO objectives, Special Emphasis Programs, Complaints of Discrimination, EEO Complaint issues, EEO Counselors or the Complaints Process, contact the SEEM in HRO.

### **Sexual Harassment**

**Q: What is sexual harassment?**

**A:** Sexual harassment is unwanted and unwelcome advances of a sexual nature. It could be a touch, written note, joke or picture, just to name a few. It is behavior an individual finds offensive that is sexual in nature.

**Q: Who can commit sexual harassment?**

**A:** Anyone -- the offensive behavior can be intentional or unintentional.

**Q: Why does sexual harassment persist?**

**A:** One reason is supervisors often consider employees' social or sexual behaviors toward each other as an issue outside their supervisory responsibility. A second reason is mistaken employee attitudes. Another reason may be an attitude toward the subject.

**Q: How do we recognize sexual harassment?**

**A:** Preventing or stopping sexual harassment requires you recognize it for what it is. The first step is to define more clearly the specific behaviors and situations that are usually considered sexual harassment. There are two types: (1) Quid Pro Quo - a person in a position of power over another offers to trade an employment benefit for a sexual favor (2) Hostile and intimidating environment - created by obvious sexually oriented activity by employees or supervisors. Sexual harassment is rarely found as the result of a single incident or event.

**Q: How do you deal with sexual harassment?**

**A:** Be aware of your work environment and potential problems within it. Set an example. Provide a clear policy and backup training for employees. Take the allegations seriously. Contact the SEEM for assistance in investigating the incident. Take action when necessary.

For more information on sexual harassment, contact the State Equal Employment Manager (SEEM) in HRO.

## **Labor-Management Relations and Partnership**

**Q: When I sit down with an employee to discuss what is expected of him or her, must I invite the union to sit in?**

**A:** No. The union has no right to be present at one-on-one discussions with employees to communicate performance standards for a particular job.

**Q: If an employee is abusing paid time for representational functions, what should I do about it?**

**A:** The amount and use of official time for representational functions are governed by the collective bargaining agreement (contract) and is generally held to be "reasonable official time" as necessary. If an employee is exceeding or otherwise abusing this provision, whatever action you take must be in accordance with the contract. First, however, you should discuss the problem with the HRO Labor Relations Specialist to establish whether there is in fact an abuse and if so, how best to correct it.

**Q: What kind of information is the union entitled to and what kind of information can I withhold?**

**A:** The union is entitled to information normally maintained by the Agency and necessary for informed bargaining or representation. It is NOT entitled to intra-management guidance, advice, counsel or training.

**Q: What are examples of unfair labor practices?**

**A:** Threatening an employee because he/she files a grievance, admonishing or giving an employee a low performance appraisal because of active union involvement, permitting union activities to influence or give the appearance of influencing selections for promotion for training opportunities.

**Q: Can the union require employees to become or remain members or to pay dues?**

**A:** No. Union membership and dues payment are voluntary. The provisions for revocation of payroll deduction of union dues are spelled out in the collective bargaining agreements.

**SECTION 7:**

**TRAINING MANAGEMENT  
AND  
CAREER DEVELOPMENT**

# **TRAINING MANAGEMENT AND CAREER DEVELOPMENT**

## **Overview of Training**

### **Purpose**

**Training** means the process of providing for and making available to an employee and placing or enrolling the employee in a planned, prepared and coordinated program, course, curriculum, subject, system or routine of instruction or education in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative or other field that will improve individual and organizational performance and assist in achieving the agency's mission and performance goals. The hiring of new employees, the introduction of new technology, organizational changes and new processes require employees receive ongoing training and development. Enhancing employee knowledge, skills and abilities will increase both their productivity and ability to successfully complete routine and increasingly complex work assignments. It is in the best interest of your work unit to train and develop your employees to the maximum extent of their capabilities.

### **Supervisor's Role**

Because of your frequent interactions with employees (i.e., making assignments and monitoring and evaluating performance), you are in the best position to determine individual employee training and developmental needs. You define the nature of the training need, recommend the training source and initiate the Training Nomination and Authorization (SF 182) or use the Army Training Requirements and Resources System (ATRRS) or ANG training managers, which begins the training authorization process.

## **Training Resources**

### **Training and development programs may be authorized to**

- Provide knowledge and skills that relate to job requirements or Agency mission.
- Develop skills needed to cope with reorganizations, changing mission requirements and technology or equipment changes.
- Train scientists, engineers and other professionals to preclude knowledge and skill obsolescence.
- Prepare employees with demonstrated potential for increased responsibility in meeting future staffing or organizational requirements.
- Provide initial training when there is a lack of qualified personnel.
- Implement administration initiatives.

### **Employee training and development needs may be met by**

- Planned work experiences, special projects, details, etc.
- Self-development (i.e., participation in professional organizations).
- Training and education provided through agency facilities and other government organizations or commercial sources.

# Orienting New Employees

## Keys to Your Success as a Supervisor or Manager

- Become familiar with your employees -- identify their strengths and areas for improvement.
- Develop a working knowledge of available training resources and options.
- Orient new employees to their office and work environment.
- Learn the process for getting training and development actions initiated, approved and authorized.
- Recognize training is not always the solution; the problem may be equipment-related, the work process or a communication issue.
- Do not forget yourself when identifying training and developmental needs.

## Purpose

Orienting a new employee is a very important activity that unfortunately, may be overlooked in accomplishing the work of the activity. Orienting new employees assists them in adjusting to their new environment, new tasks and new co-workers.

## Supervisor's Role

You should plan orientation activities for all of your new employees whether or not your organization conducts new employee orientation. What you do in the first few days and weeks to assist the employee's transition may serve to establish work habits, relationships with co-workers and overall contributions of the employee for months to come.

NOTE: Missouri Human Resources Specialists present a new employee orientation at the beginning of each pay period. Topics include Benefits, Leave, Thrift Savings Plan, etc.

**You are likely to do a better job at orientation** if you plan what to do and when to do it, before your employee arrives. It is helpful to collect any information you can about the new employee; you can do this by checking the personnel folder or interview notes for any information available. After the employee has been at work a few days, you will probably find that the orientation plan should be revised. A brief checklist of items that should be completed before the employee arrives and during the employee's first day, week and month.

## Before the new employee arrives you should

- Announce the new employee to your staff and ask for their support in assisting him/her adjust.
- Arrange to set up and equip the new employee's workstation.
- Assemble some preliminary assignments or substantive reading materials, such as standard operating procedures.
- Develop some job-related tasks the new employee can complete on the first full day. This will provide the employee with a sense of accomplishment.

- If appropriate, select co-workers who can assist you in the orientation. Co-workers can help the employee feel comfortable and adapt to the new environment.

**On the employee's first day you should**

- Welcome and put the employee at ease. Encourage questions.
- Show the employee around the work area and other facilities, including the location of telephones, message center, mailboxes, copy machines, fax machines, restrooms, etc.
- Review how to operate the telephone system and how to answer the telephone in the work area.
- Review work hours and work schedule options, lunch schedules, leave policies, including who can approve leave in advance or unscheduled leave.
- Identify the person(s) the new employee can go to for assistance if you are absent.
- Introduce the new employee to co-workers, supervisors and managers and explain the relationship of their work to the employee's duties. It may be helpful to provide the employee with organizational charts.
- Go over safety, accident and emergency procedures for the work area.
- Have the new employee complete job-related tasks that will provide a sense of accomplishment.

**By the end of the first week, you should**

- Review the employee's position description, emphasizing critical duties and responsibilities.
- Explain how the employee's work is important to the immediate work center and how the office's work contributes to the mission of DoD.
- Communicate your performance expectations, including expectations regarding safe work habits, securing computer files and safeguarding confidential data.
- Point out frequently used internal forms, where they are maintained and how they are used.
- Review policy and procedures for the office and go over guides, instruction manuals, etc., that are available in the work area. Review special words and terms used by the office.
- Provide the employee with positive feedback and offer suggestions that will help the employee learn the job and fit in with the group.
- Ask the employee how the first week went and discuss any areas of concern.

**By the end of the first month you should**

- Provide a copy of the performance plan and obtain employee's input and signature.
- Discuss what is involved in a performance rating, specifically: critical elements of the position that will be used to measure performance, how performance is documented and the time performance reviews and ratings will take place.

- Review the employee's work progress to date and discuss any areas of concern that you or the employee identifies.
- Provide the employee with general information on personal growth and training opportunities, as well as promotion procedures. Decide together what training and developmental activities are necessary during the next six months.
- Confirm the employee has reviewed both the Standards of Ethical Conduct for Employees of the Executive Branch and the Conflict-of-Interest Regulations. Emphasize it is the employee's responsibility to be aware of the requirements and restrictions of these documents and to comply with them.

## **Training Needs Assessment**

### **Purpose**

A training needs assessment will assist you as a supervisor in identifying the situations in which training is desirable or necessary. The training needs assessment can be accomplished for individuals by occupations or for an entire work group and can be done formally or informally. The training needs assessment is the best way for the supervisor to make an informed decision about what training should be scheduled.

### **Supervisor's Role**

As an employee's immediate supervisor, you will be able to identify discrepancies between current work performance and desired performance. You should ensure the discrepancy is the result of a skill deficiency before initiating any type of training action. You will want to understand the goals of the training in order to choose the most appropriate type of training and select the vendor whose training most closely meets the identified training needs.

### **Supervisory Strategy for Training Needs Assessment**

Whether you are conducting a training needs assessment for an individual or a group, the strategy is basically the same. You must first determine what performance needs to occur and whether there is a discrepancy between the current work performance and the desired work performance. If there are projected workplace changes that may impact performance, you will want to complete a training needs assessment to determine what training will need to occur to allow the employee to keep pace with those changes.

If there is an important discrepancy between current work performance and desired work performance, you will need to determine if the discrepancy is a training problem or another type of performance problem. This is where supervisors must ask the question, "Is this a skill deficiency or some other type of problem?" If the problem is not a skill deficiency, training is not the solution. Rather, some type of performance management action should be taken.

If the performance discrepancy results from a skill deficiency, formal training may be one possible solution. The importance of the skill deficiency will help you determine the relative priority of the training. Interventions other than formal training might include informal training, on-the-job training, practice sessions, feedback on performance, self-study training and mentoring by a senior employee who is proficient in that skill area.

# Individual Development Plans

## Purpose

An **Individual Development Plan (IDP)** is an employee development tool that identifies activities that will enhance the employee's knowledge, skills and abilities. The IDP process provides an opportunity for you to learn about your employee's goals, as well as communicate his/her strengths and deficiencies in a developmental context.

## Completing an IDP

When completing a IDP you should make it a joint effort between the employee and you. You should consider your organization's needs, technology changes, expected turnover, program plans, etc. The IDP should be a realistic working document, not a "wish list". The employee should be accountable for following through with the IDP activities. Sections of the IDP include:

- **Developmental Objectives** - These are statements defining who will do what and under what conditions. An example is "Mary Smith will be able to make clear, effective presentations to the office or division staff."
- **Proposed Dates** - List when the activities are offered or if appropriate, a targeted completion date or a time frame for completion.
- **Cost Estimate** - List the approximate costs of each of the activities. Be sure to include the tuition or course fee, as well as any incidental costs associated with the activities.

## Supervisor's Role

Through your frequent interactions with employees you are the person to best determine an employee's training and developmental needs. When creating an IDP, you should take the lead in formulating a partnership with the employee. The employee should identify realistic goals and activities for achievement and you should assist by providing feedback and suggestions.

# Training Resources

## Purpose

Once you have determined there is a need for training and/or development, you must identify a source or provider for the required training. The information will help you find the appropriate training, either for employees you supervise or for your own training and development.

## Supervisor's Role

Because you are expected to initiate the Training Nomination and Authorization, you must be aware of the possible choices for training sources. In addition to the sources listed, your own supervisor may be a valuable source of information on Government and non-Government training programs available.

## **ARNG and ANG Training and Career Development Opportunities**

Training managers provide lists of available courses to supervisors, managers and employees for mission essential training and career development. Most are available electronically through the Army Training Requirements and Resources System (ATRRS).

- **USDA Graduate School Catalog** - (available through the HRO Employee Development Specialist). It lists both classroom and correspondence courses.
- **Non-Government Sources** - These sources can range from private companies to local community colleges and universities.
- **Other Options** - There are a number of available training options that you may not immediately consider as training opportunities. These options include on-the-job training by you, another supervisor or another employee; CD ROM-based instruction available from National Guard education centers; distance learning; a mentoring arrangement with an experienced employee; developmental assignments or details to another office; technical or professional conferences; participation in professional organizations and reading professional books, journals or other periodicals.

## **Initiating the Request for Training and Authorization – SF 182**

### **Purpose**

The Training Nomination and Authorization is available in an automated version on the HRO website. This format is used by most sites and is acceptable for most circumstances. This form is the agency document used to nominate and authorize employee participation in training activities.

### **Supervisor's Role**

You are the first link in the training approval chain and it is your responsibility to initiate the Training Nomination and Authorization using the SF 182. You should consider the training needs of employees initially when performance standards and work plans are established during periodic reviews of the employee's performance and in developing the IDP with the employee.

### **Completing the Training Nomination and Authorization**

When completing the Training Nomination and Authorization. It is important to maintain care and accuracy. Some reminders include:

- As the supervisor you should initiate the Training Nomination and Authorization.
- The Training Nomination and Authorization is required to authorize the employee to attend training and update the training file.
- You should always follow the procedures established by the HRO/HRDS.
- No training may be attended, conducted or paid for that has not been authorized before the start of training.
- The Training Nomination and Authorization should be initiated in time to reach the HRO/HRDS or Training Manager at least 60 days before the training begins.

## Frequently Asked Questions (FAQs)

**Q: I have found a number of courses I would request my employee to attend. Are there any restrictions on who can attend?**

**A:** All requested training must be mission-related. Training should be used as a means of enhancing individual or group performance that contributes to the organization's mission and/or relates to the performance of official duties. The justifications should clearly reflect how the training would accomplish these objectives. Both participants and their supervisors should carefully review the description of each requested course, particularly noting time requirements. In the training application it must be indicated how this training will be used in the employee's workplace.

**Q: What is the difference between an internal or NGB sponsored course and vendor sponsored training? Is it important to make the distinction?**

**A:** Internal and NGB sponsored training courses are for DoD employees and are listed in the respective (ARNG or ANG) automated training systems.

Vendor-sponsored training includes those courses commercially available for a fee. Examples include courses provided by US Graduate, Caterpillar, OSHKOSH, AM General etc. It is important to make a distinction because funding authorization and cancellation policies are different for each type of course.

**Q: What must be done if my employee cannot attend an NGB sponsored course after he/she has been accepted and notified?**

**A:** Participants who must cancel a course for which they have been accepted should notify the HRO/HRDS or their respective training manager at least two weeks before the course begins so that another participant may be assigned to their space in the class. Failure to make proper notification will result in a lost training opportunity.

**Q: How do I cancel or change a vendor sponsored training request for my employee?**

**A:** Notify the vendor and then follow appropriate procedures established by your HRO/HRDS. A designated individual (usually the person inputting the training request) must submit a cancellation notification to the vendor. The notification should include in the body the following: course title, name of the participant, reason for cancellation or change, whether the vendor has been contacted, and the amount of the cancellation fee, if any.

**Q: How long does it take for a training request to be completed?**

**A:** The time varies from one organization to another depending on the authorization/approval chain. Usually it takes two days for the request to be processed once it reaches the proper level. Requests should be received by the HRO/HRDS or training manager at least four weeks before training begins to allow for adequate processing time.

**Q: How will I know if my employee has been authorized to attend vendor sponsored training? Will I receive a confirmation indicating the acceptance?**

**A:** The request has been authorized when a confirmation is received from the HRO/HRDS or training manager. If training applications were submitted for more than one employee, you should check each name to be sure all the applicants have been authorized. It is the responsibility of the initiating office to monitor the training request to ensure that it is authorized by the HRO/HRDS and then notify the participant. It is the responsibility of the participant to notify the immediate supervisor of the acceptance. The notification will specify the location and the course hours.

**Q: Can someone from the HRO/HRDS register my employee for a vendor-sponsored course?**

**A:** No. It is the responsibility of the requesting office to complete the registration with the vendor.

**Q: My employee's request for vendor-sponsored training was rejected, but he/she was not notified and attended the class. What do I do now?**

**A:** It is the responsibility of the HRO/HRDS or training manager and the supervisor to monitor the progress of the training application. Employees should never attend training without the proper authorization. However, if this does occur, notify your HRO/HRDS and follow the procedures given.

**Q: When is a meeting or conference considered a training event?**

**A:** Agencies may sponsor an employee's attendance at a meeting or conference as a developmental assignment under section 4110 of Title 5, United States Code, when (a) the announced purpose of the conference is educational or instructional, (b) more than half of the time is scheduled for a planned, organized exchange of information between presenters and audience that meets the definition in section 4101 of Title 5, United States Code, (c) the content of the conference is germane to improving individual and/or organizational performance and (d) developmental benefits will be derived through the employee's attendance.

For more information on training in general, orienting new employees, preparing employees or training requirements, contact your Employee Development Specialist in HRO.

**SECTION 8:**

**SUPPLEMENTAL  
INFORMATION**

## **SUPPLEMENTAL INFORMATION**

### **Freedom of Information Act (FOIA)**

#### **Purpose**

The Freedom of Information Act (FOIA) was enacted so the public could obtain copies of Government records. The Act attempts to balance the public's right to know and the ability of the Government to function. Under the FOIA, the National Guard is required to make available to the public copies of all documents in its possession, with certain exceptions.

#### **Supervisor's Role**

You should be aware of the provisions of FOIA and understand that most National Guard records are subject to a FOIA request. Most records may be released. Though you may not directly handle a FOIA request yourself, you should cooperate with a FOIA Coordinator if you are asked to provide records or information. Also, you should ensure all of your employees are familiar with the principles of FOIA.

Information available under FOIA can take many forms (i.e., paper records, microfiche, photos, maps and electronic records such as e-mail). If the records requested under FOIA fit into one of several narrow categories or exemptions, they do not necessarily have to be released. The following kinds of records are generally exempt from release:

- Trade secrets and commercial or financial information that is privileged or confidential.
- Inter-agency or intra-agency memorandums or letters if the content involves recommendations or opinions that are part of the process of Government decision making and if released would cause harm to the Missouri National Guard and personnel, medical and similar files, the release of which would constitute a clearly unwarranted invasion of personal privacy.
- All requests for records must be received centrally by the FOIA Officer. That office will coordinate the request for information. Any requests for records you receive should be referred to the FOIA Officer immediately since FOIA requests must be responded to within 20 calendar days. All supervisors and managers should be familiar with principles of the FOIA.

Contact: For more information, contact your organization's FOIA Officer – State JAG.

### **Privacy Act**

#### **Purpose**

The Privacy Act provides safeguards for persons against unwarranted invasions of privacy. The Privacy Act is applicable only when records are maintained by a Federal Agency in a "system of records" (i.e., a group of records under the control of a Federal Agency from which information is retrieved by the name of the person, identifying number or some other identifier). It requires Federal agencies to maintain prescribed standards for collecting, maintaining, using and/or disclosing information of a personal nature. The Privacy Act also provides employees with access privileges to their personnel records. The personnel records system for National Guard employees is described in Federal Register notices.

## **Supervisor's Role**

As a supervisor you should understand the provisions of the Privacy Act. You cannot keep secret files on employees. (A personal note maintained by supervisors as memory jogger is not considered part of a Privacy Act system of records until it is shared with someone else. The subject individual then has the right of access to that information). You should ensure personal information is used only for its intended purpose. In most instances, you should permit employees to review their record and provide them with the opportunity to correct inaccuracies.

The Privacy Act was enacted to permit persons to and find out what records the Federal Government has maintained on them, (b) have access to those records and to provide safeguards for persons against invasions of personal privacy.

### **To achieve this you should**

- Understand the requirements of the Privacy Act and how they relate to your job.
- Consult the State JAG Officer on all Privacy Act requests.
- Be certain personal information is not disclosed unless
  - There is a bona fide "need to know" in order to perform an official job function.
  - Permission was received from the subject of the information.
  - The disclosure is authorized by law or regulation.
- Collect and maintain only information that is necessary and relevant to a function the National Guard is authorized to perform by law or Executive Order.
- Verify the identity of the requester before disclosing any information (by picture ID if in person or by notarized signature if by mail) to ensure it is the person to whom the record pertains.
- Provide appropriate safeguards to all personal information in your possession (i.e., store files in locked cabinets and protect electronic files by using passwords).
- Respond to requests by the subject person within 10 working days. When in doubt, check with the Privacy Act Coordinator – State JAG Officer.

## **Whistleblower Protection**

### **Purpose**

All personnel actions you effect must be initiated and carried out without prejudice. This means you cannot discriminate against an employee who makes a whistleblower disclosure(s). The Whistleblower Protection Act (WPA) protects current, former and prospective federal employees from unfair personnel actions that may result from their whistleblowing activities.

### **Supervisor's Role**

You should be familiar with the provisions of the Whistleblower Protection Act and provide all employees the freedom to disclose information protected by the Act (i.e., information they reasonably believe is

evidence of a violation of any law, rule or regulation; gross mismanagement; a gross waste of funds, an abuse of authority or a substantial and specific danger to public health or safety). You must ensure that all personnel actions taken under your control are initiated and effected without prejudice to whistle-blowing activities.

For more information about the Whistleblower Protection Act contact the JAG.

**If an employee is a WHISTLEBLOWER** you must treat them fairly and without prejudice to their whistleblowing activities. You should ensure all personnel actions you effect are based on merit principles. Examples of these personnel actions include:

- New appointments.
- Promotions.
- Disciplinary or corrective actions.
- Details.
- Reassignments or transfers.
- Reinstatements or reemployment.
- Performance evaluations.
- Pay decisions.
- Benefits administration.
- Awards.
- Training and development.
- Other significant changes in duties.

## **Prohibited Personnel Practices**

Under provisions of the Civil Service Reform Act, any employee who can effect or direct others to effect, recommend or approve any personnel action may **not**:

- Discriminate based on race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation.
- Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.
- Coerce the political activity of any person.
- Deceive or willfully obstruct any person from competing for employment.
- Influence any person to withdraw from competition for any position to improve or injure the employment prospects of any other person.

- Give unauthorized preference or advantage to any person to improve or injure the employment prospects of any particular employee or applicant.
- Engage in nepotism (hire or promote or advocate the hiring or promotion of relatives within the same Agency component).
- Take or threaten to take a personnel action against an employee for any disclosure of information the employee reasonably believes evidences a violation of law, rule or regulation, gross mismanagement; a gross waste of funds; an abuse of authority or a substantial and specific danger to public health or safety.
- Discriminate based on personal conduct that is not adverse to on-the-job performance of the employee, applicant or others.
- Violate any law, rule or regulation that implements or directly concerns the merit system principles.

## Political Activities – The Hatch Act Purpose

All personnel are encouraged to register and vote. However, there should be no political party support activity by technicians in uniform during duty hours or on base. The Hatch Act was originally passed to prohibit all partisan political activities by Federal employees. It was modified in 1993 to permit some partisan activities. The modification provides for Federal employees to participate voluntarily, the same as private citizens, in the partisan political process. It protects the Federal civilian employee from improper political solicitations. There are exceptions for non-partisan elections. *Example:* Federal employees can solicit, accept and receive individualized, uncompensated volunteer services, but not contributions.

### Supervisor's Role

You should be familiar with the provisions of The Hatch Act and its exceptions.

- A Technician **may** (but not in uniform):
  - Join a political party or political group and participate in its activities.
  - Serve as an officer of a political party.
  - Attend and participate in nominating caucuses.
  - Organize a political party.
  - Participate in political rallies and gatherings.
  - Display pictures, signs and buttons – off-duty, off property.
- A Technician **may not** participate in political activities:
  - While on duty or wearing a uniform, badge, insignia or other similar item that identifies the employing agency or the position of the employee.
  - While in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency.
  - While using a Government-owned/leased vehicle or while using a privately owned vehicle in the discharge of official duties.

- Technicians who are also military members may have additional restrictions imposed.

For all Hatch Act information and clarification, check with the JAG for further guidance.

## **Procurement Integrity Act**

### **Purpose**

Government business shall be conducted in a manner above reproach and except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is strictly avoid any conflict-of-interest or even the appearance of a conflict-of-interest in government-contractor relationships. While many federal laws and regulations place restrictions on the actions of government personnel, employees' official conduct must be such that they would have no reluctance to make a full public disclosure of their actions.

### **Supervisor's Role**

You should be familiar with the provisions of the Procurement Integrity Act and its exceptions. As a rule, no government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan or anything of monetary value from anyone who:

- Has or is seeking to obtain government business with the employee's agency.
- Conducts activities that are regulated by the employee's agency.
- Has an interest that may be substantially affected by the performance or nonperformance of the employee's official duties.

Violations of the Procurement Integrity Act may subject the employee to severe disciplinary action up to and including civil and criminal actions. Certain limited exceptions are authorized in agency regulations.

Contact the USP&FO, Base Comptroller's Office or JAG for questions concerning the Procurement Integrity Act.

## **Antideficiency Act**

### **Purpose**

The Antideficiency Act (ADA) is codified in Sections 1341(a) and 1517(a) of Title 31, United States Code (U.S.C.). Funds are available to support contract obligations only if previously authorized and appropriated by Congress. The legislative process of authorization and appropriation creates different types of funds with resulting limits on their use as to purpose, time and amount. If those limitations are exceeded, corrective entries in the accounts are required upon discovery. A shortfall in unobligated funding authority in the proper account or subdivision of funds, whether occurring at the time the liability was incurred or at the time the obligation is properly posted, may result in a reportable violation of the ADA.

The receipt of additional funds before the end of the accounting period does not necessarily mitigate the violation or eliminate the reporting requirement. However, such over-obligations are not the only source of violations. By law, violations must be reported to the President through the Office of Management and Budget (OMB) and the Congress.

## **Supervisor's Role**

If you have responsibility for expending Federal funds (through purchase requests or IMPAC card use, etc.), you should be familiar with the provisions of the ADA and its provisions. If you have any questions concerning the use of funds and ADA violations, direct them to the USP&FO or Base Comptroller.

## **Administrative Control of Funds**

The National Guard is required by law to establish and operate a system of administrative controls over appropriated and non-appropriated funds. These controls are designed to regulate the quarterly rate of obligation, the management approval levels for obligations according to timing of individual contract actions, cumulative program dollar values and the purposes for which the funds are used. The system also tracks funds availability and facilitates a determination of accountability for ADA violations.

## **Potential Causes of ADA Violations.**

**Potential causes of ADA violations include, but are not limited to:**

- Authorizing or creating obligations before funds become available.
- Authorizing/creating obligations in excess of amounts available including quarterly allotments, sub-allotments, allocations of appropriated funds or other controls.
- Exceeding a statutory ceiling on the amount of funds that may either be obligated or expended for a specific purpose, even if otherwise available.
- Distributing funds in excess of the amount available.
- Exceeding the amount available in an administrative subdivision of funds.
- Failing to comply with statutory or regulatory limits or prohibitions on the use of an appropriation or fund.
- Accepting voluntary service or employing personal service, in excess of that authorized by law, except in emergencies involving safety of human life or protection of property.

## **Environmental Compliance**

### **Purpose**

ECAMP or the environmental compliance and management program is very extensive and generally requires both initial (approximately 20 hours) and follow-on training for a successful program. Such training involves subjects such as environmental compliance, hazardous waste management, material data safety sheet (MSDS) awareness and the setup and operation of a successful program. Large agency fines, bad publicity and lawsuits are some of the penalties that can result from environmental compliance violations.

## Supervisor's Role

It is your responsibility to contact your environmental compliance representative for your particular unit or branch to become aware of your responsibilities. At a minimum, you must become familiar with your unit environmental program or in the absence of such program, verify whether one is required. For the ARNG, the environmental compliance office is located in the CFMO. The environmental specialist or environmental engineer located in the base civil engineering section or the clinic is responsible for environmental compliance in the ANG.

## Public Affairs – Handling the Media

### Purpose

As the military continues to change and its relationship with the general public becomes more common and expected the need for an understanding of the media and especially the military's relationship with the news media is a skill which commanders and those in leadership positions are expected to master. Gone are the days where the comment "no comment" is acceptable. Also, comments made "off the record" to a reporter can show up in the morning headlines. While the media can be a great asset to forwarding the "Guard" message and objectives, extreme caution and careful guidelines must be followed before providing media input.

### Supervisor's Role

If a serious incident involving members of your unit takes place or something happens in your area involving National Guard property or equipment, work with your chain of command to ensure that the full-time Public Affairs Office in your State Headquarters is notified immediately. If an accident involves serious injury, death or significant loss of property, the moment you finish calling for help from the police begin the process of notifying proper public affairs officials to **obtain guidance before making statements to the media**. These procedures should be part of every unit's Standard Operating Procedures. By notifying the State Public Affairs Office immediately, you engage the horsepower of higher headquarters. **Avoid the temptation to wade into a potentially complicated public affairs issue alone – the risks are too great.** Rely on the full-time Public Affairs Office to take over the public affairs mission and stand by to assist.

## Glossary of Human Resource Terms

**Abandonment of Position** - When an employee fails to report for duty and does not submit a resignation.

**Absence Without Leave (AWOL)** - Absence without approved leave.

**Admonishment** - Informal censure, usually oral, of an employee by a supervisor.

**Adverse Action** - A removal or suspension without pay, furlough without pay for 30 days or less or reduction in grade or pay. An adverse action may be taken against an employee for disciplinary or non-disciplinary reasons. TPR 752 covers adverse and disciplinary actions. TPR 430 covers removals or reductions in grade based solely on unacceptable performance. TPR 351 covers actions taken for reduction-in-force reasons.

**Affirmative Action** - Federal policy that requires agencies to take positive steps to ensure equal opportunity in employment, development, advancement and treatment of all employees and applicants for employment regardless of race, color, sex, religion, age, national origin or physical or mental handicap. Affirmative action also requires specific actions be directed at special problems and unique concerns associated with equal employment opportunity for minorities, women and other disadvantaged groups.

**Appeal** - A request by an employee for review of an action either by a higher authority, inside or outside an agency. The right to such review is provided by law or regulations and may include a hearing after which a written decision, based on applicable laws, Executive Orders and regulations, is rendered.

**Appointment, Indefinite** - Appointment with an indefinite time limitation that should be used when the appointment is expected to extend beyond one year. A technician must be given a 30-day written notice upon separation.

**Appointment, Noncompetitive** - Employment without competing with others, in the sense that it is completed without regard to Civil Service section registers, etc. Includes reinstatements, transfers, reassignments, demotion and promotion.

**Appointment, Temporary Limited** – Non-permanent appointment of an employee for a specified period of one year or less or for seasonal or intermittent positions.

**Appointment, Term** – Non-permanent appointment of an employee to work on a project expected to last more than one year, but less than four years.

**Arbitration** - Final step of the negotiated grievance procedure in which an impartial arbitrator selected by the agency and union renders a binding award to resolve the grievance.

**Arbitrator** - An impartial third party to whom disputing parties submit their differences for decision (award). An ad hoc arbitrator is one selected to act in a specific case or a limited group of cases. A permanent arbitrator is one selected to serve for the life of the agreement or a stipulated term, hearing all disputes that arise during this period.

**Audit** - A fact-finding session conducted by an HRO representative with an employee or employee's supervisor to verify or gather information about a position. Sometimes called "position review."

**Bargaining Rights** - Legally recognized rights of a labor organization to represent bargaining unit employees in appropriate dealings with management.

**Bargaining Unit** - An appropriate grouping of employees represented on an exclusive basis by a labor organization. "Appropriate" for this purpose means a group of employees who share a community of interest that promotes effective union and agency dealings and efficient agency operations.

**Basic Workweek** - For a full-time employee, the 40-hour work schedule within an administrative workweek. The usual workweek is governed by The Adjutant General's workweek policy.

**Break in Service** - The time between separation and reemployment that may cause a loss of rights or privileges. For transfer purposes, it means not being on an agency payroll for one working day or more.

**Bumping** - During reduction-in-force, the displacement of one employee by another employee in a higher retention group or subgroup.

**Career** - Tenure of a permanent employee in the excepted or competitive service who has completed the trial or probationary period.

**Career-Conditional** - Tenure of a permanent employee in the competitive service who has not completed three years of substantially continuous creditable Federal service.

**Career Ladder** - A series of developmental positions of increasing difficulty in the same line of work, through which an employee may progress to a journey level.

**Certificate** - A document that has been developed through competitive procedures to provide selecting officials with a list of qualified candidates.

**Certification** - The process by which eligible candidates are ranked for appointment or promotion consideration.

**Change in Duty Station** - A personnel action that changes an employee from one geographical location to another in the same agency.

**Change to Lower Grade Level or Band** - Downgrading a position or reducing an employee's grade.

**Class of Positions** - All positions sufficiently similar in (1) kind of subject matter of work, (2) level of difficulty and responsibility and (3) qualification requirements, so as to warrant similar treatment in personnel and pay administration.

**Collective Bargaining** - Performance of the mutual obligation of the employer and the exclusive employee representative to meet at reasonable time to consult and bargain in good faith, to reach agreement with respect to conditions of employment and to execute a written document incorporating such agreements if requested by either party. (This obligation does not compel either party to agree to proposals or be required to make concessions.)

**Collective Bargaining Agreement** - A written agreement between management and a labor organization that is usually for a definite term and usually defines conditions of employment including grievance and arbitration procedures.

**Compensatory Time** - Time off (hour for hour) granted an employee in lieu of overtime pay.

**Competitive Area** - For reduction-in-force, that part of an agency within which employees are in competition for retention.

**Competitive Service** - Federal positions normally filled through open competitive examination under civil service rules and regulations.

**Competitive Status** - Basic eligibility of a person to be selected to fill a position in the competitive service without open competitive examination. Competitive status may be acquired by career-conditional or career appointment through open competitive examination or it may be granted by statute, Executive Order or civil service rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated or demoted subject to the conditions prescribed by Civil Service rules and regulations.

**Conversion** - This process is also to change a temporary employee's grade (i.e., from GS-3 to GS-4 is a conversion to another appointment) or to change from one type of appointment to another.

**Demotion** - A change of an employee while serving continuously with the same Agency (a) to lower grade when both the old and the new positions are in the General Schedule or under the same type of graded wage schedule or (b) to a position with a lower rate of pay when both the old and the new positions are the same type of ungraded wage schedule or are in a different pay system.

**Detail** - A temporary assignment of an employee to different duties or to a different position for a specified time, with the employee returning to his/her regular duties at the end of the detail.

**Disciplinary Action** - Action taken to correct the conduct of an employee. An action may range from an informal admonishment through a formal written reprimand, suspension, reduction-in-grade or pay to removal from civil service.

**Downgrading** - Change of a position to a lower grade.

**Dual Compensation** - Compensation for more than one Federal position if the employee worked more than 40 hours during the week. The term is also used in connection with compensation from a full-time Federal position plus a retirement annuity for prior military service.

**Employee Development** - A term that may include career development and upward mobility. It may be oriented toward development for better performance on an employee's current job, for learning a new policy or procedure or for enhancing an employee's potential for advancement.

**Employee Relations** - The human resource function that focuses on the relationship between the supervisor and individual employees.

**Entry Level Position** - A position in an occupation at the beginning grade level.

**Environmental Differential Pay (EDP)** - Additional pay authorized for a duty involving unusually severe hazards or working conditions.

**Equal Employment Opportunity (EEO)** - Federal policy to provide equal employment opportunity for all, to prohibit discrimination on the grounds of age, race, color, religion, sex, national origin or physical or mental handicap and to promote the full realization of employees' potential through a continuing affirmative action program in each executive department and agency.

**Excepted Service** - Positions in the Federal Civil Service not subject to the appointment requirements of the competitive service. Exceptions to the normal, competitive requirements are authorized by law, executive order or regulation.

**Exclusive Recognition** - The status conferred on a labor organization that receives a majority of votes cast in a representation election and is entitled to act for employees included in an appropriate bargaining unit. The labor organization enjoying this status is known as the exclusive representative, exclusive bargaining representative, bargaining agent or exclusive bargaining agent.

**Federal Labor Relations Authority (FLRA)** - Administers the Federal Service Labor-Management Relations Program. It resolves questions of union representation of employees, prosecutes and adjudicates allegations of unfair labor practices, decides negotiability questions and on appeal and reviews decisions of arbitrators.

**Federal Service Impasses Panel (FSIP)** - Administrative body created to resolve bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for settling impasses or may settle the impasse itself. Considered the legal alternative to strike in the Federal sector.

**Federal Wage System (FWS)** - A body of laws and regulations governing the administrative processes related to trades and laboring occupations in the Federal service.

**Full Field Investigation** - Personnel investigation of an applicant's background to determine whether he/she meets fitness standards for a critical-sensitive Federal position.

**General Schedule (GS)** - The pay system as presented by Chapter 51 of Title 5, United States Code for classifying positions.

**Grade** - All classes of positions that, although different with respect to kind or subject matter of work, are sufficiently equivalent as to (1) level of difficulty and responsibility and (2) level of qualification requirements of the work to warrant the inclusion within one range of rates of basic compensation.

**Grade Retention** - The right of a General Schedule or prevailing rate employee when demoted for certain reasons to retain the higher grade for most purposes for two years.

**Grievance (Negotiated Procedure)** - Any complaint or expressed dissatisfaction by an employee against an action by management in connection with conditions of employment. Whether such complaint or expressed dissatisfaction is formally recognized and handled as a "grievance" under a negotiated procedure depends on the scope of that procedure.

**Grievance (Under Agency Administrative Procedure)** - A request by an employee or by a group of employees acting as individuals for personal relief in a matter of concern or dissatisfaction to the employee, subject to the control of Agency management.

**Grievance Procedure** - A procedure, either administrative or negotiated, by which employees may seek redress of any matter subject to the control of Agency management.

**Hearing** - The opportunity for contending parties under a grievance, appeal, complaint or other remedial process to provide testimony, to introduce evidence and to confront, examine or cross-examine witnesses.

**Incentive Awards** - An all-inclusive term covering awards granted under various parts of OPM and NGB regulations. Includes awards for adopted suggestions, performance awards such as Sustained Superior Performance (SSP) and Quality Step Increases (QSI), special act and achievement awards and various honorary awards.

**Injury, Traumatic** - Under the Federal Employees' Compensation Act, for continuation of pay purposes, a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member or function of the body affected and be caused by a specific event or incident or series of events or incidents within a single day or work shift.

**Injury, Work Related** - For compensation purposes under the Federal Employees' Compensation Act, a personal injury sustained while in the performance of duty. The term "injury" includes diseases caused by the employment.

**Interagency Career Transition Assistance Program (ICTAP)** - A program to help find jobs for career and career-conditional employees displaced either through reduction-in-force or by an inability to accept assignment to another area.

**Intermittent** - Less than full-time employment requiring irregular work hours that cannot be pre-scheduled.

**Job Analysis** - Systematic review of duties of a position and the development and evaluation of the knowledge, skills and abilities (KSAs) needed to perform the work.

**Job Freeze** - A restriction on hiring and/or promotion by administrative or legislative action.

**Journey Level (Full Performance Level)** - The highest level of a career ladder position at which an employee applies the full range of duties in a specific occupation. All jobs below full performance level are developmental, through which an employee in the occupation may progress to full performance.

**Labor-Management Relations** - Relationships and dealings between employee unions and management.

**Labor Organization** - An organization composed in whole or in part of employees, in which employees participate and pay dues and whose purpose is to deal with an Agency concerning grievances and working conditions of employment.

**Leave, Annual** - Time allowed to employees for vacation and other absences for personal reasons.

**Leave, Court** - Time allowed to employees for jury and certain types of witness service.

**Leave, Military** - Time allowed to employees for certain types of military service.

**Leave, Sick** - Time allowed to employees for physical incapacity to prevent the spread of contagious diseases or to obtain medical, dental or eye examination or treatment or to care for relatives (FMLA).

**Leave Without Pay (LWOP)** - A temporary nonpayment status and absence from duty requested by an employee and approved by management.

**Level of Difficulty** - A classification term used to indicate the relative ranking of duties and responsibilities.

**Major Duty** - Any duty or responsibility or group of closely related tasks or a position that (1) determines qualification requirements for the position, (2) occupies 25 percent or more of the employee's time and (3) is a regular or recurring duty.

**Management Official** - A person employed by an Agency in a position with duties and responsibilities, which require or authorize the individual to formulate, determine or influence the policies of the Agency.

**Management Rights** - The right of management to make day-to-day personnel decisions and to direct the workforce without mandatory negotiation with the exclusion representative. A specific listing of management rights is contained in the Federal labor relations statute and includes such matters as hiring, assignment, removal, selection, contracting-out, etc.

**Mediation** - Procedure using a third party to help reach an agreement voluntarily.

**Merit Promotion Program** - The system under which agencies consider an employee for internal personnel actions on the basis of personal merit.

**National Agency Check and Inquiry (NACI)** - The investigation of applicants for non-sensitive Federal positions by means of a name and background check through national investigative files and voucher inquiries.

**Negotiability** - A determination as to whether a matter is within the obligation to bargain.

**Negotiations** - The bargaining process used to reach a settlement between labor and management over conditions of employment.

**Noncompetitive Appointment** - An appointment that is permitted in the Federal service that is exempt from competitive procedures (either a test or formal examination of qualifications). Non-competitive appointments may be authorized because of (1) characteristics of the position, such as a senior policy/leadership position, (2) characteristics of the candidate, such as a physically handicapped individual or (3) the competitive status ascribable to the candidate, such as reinstatement of a former career employee.

**Noncompetitive Promotion** - A promotion that is effected without a competitive requirement based on a prior promotion authorization/plan.

- An employee is selected through a competitive process (such as Merit Promotion or Delegated Examining) for the career ladder position that starts as grade 7 and progresses to grade 11. The employee may be promoted from 7 to 9 and then from 9 to 11 without further competition. This is a career ladder promotion – a promotion that is noncompetitive.
- An employee competes successfully for a position at the grade 5 level and the vacancy announcement indicates that the position has “promotion potential to grade 6.” The employee may be promoted to the grade 6 level without additional competition – another noncompetitive promotion.

**Objection** - A written statement by an Agency of the reasons (qualifications, medical or suitability) it believes an eligible person whose name is on a certificate should not be referred for the position. If the Examining Office sustains the objection, the Agency may eliminate the person from consideration.

**Office of Personnel Management (OPM)** - Regulates, administers and evaluates the Civil Service Program according to merit principles.

**Office of Workers' Compensation Programs (OWCP)** - Office within the Department of Labor that administers statutes that allow compensation to employees and their survivors for work-related injuries and illnesses. Decides and pays claims.

**Official Personnel Folder (OPF)** - The official repository of employment records and documents affecting personnel actions during an employee's Federal civilian service.

**Pay Retention** - The right of a General Schedule or prevailing-rate employee (following a grade retention period or at other specified times when the rate of basic pay would otherwise be reduced) to continue to receive the higher rate. Pay is retained indefinitely.

**Pay, Severance** - Money paid to employees who are separated by reduction-in-force, but are not eligible for retirement. The following formula is used, but the amount cannot be more than one year's pay, *Basic Severance Pay* - One week's pay for each year of civilian service up to 10 years and two weeks' pay for each year served over 10 years, plus *Age Adjustment Allowance* - 10 percent of the basic severance pay for each year over age 40.

**Performance Appraisal** - The comparison, under a performance appraisal system, of an employee's actual performance against the performance standards previously established for the position.

**Personnel Action** - The process necessary to appoint, separate, reinstate or make other changes affecting an employee.

**Personnel Management** - Management of human resources to accomplish a mission and provide individual job satisfaction. It is the line responsibility of the operating supervisor and the staff responsibility of the Human Resource Office.

**Position** - A specific job consisting of all the current major duties and responsibilities assigned or delegated by management to an employee.

**Position Classification** - Analyzing and categorizing jobs by occupational group, series, class and grade in accordance with official classification standards.

**Position Description** - An official written statement of the major duties, responsibilities and supervisory relationships of a position.

**Position Management** - The process of designing positions to combine logical, consistent duties and responsibilities into an orderly, efficient and productive organization to accomplish Agency mission.

**Premium Pay** - Additional pay for shift premium and holiday work.

**Prevailing Rate System** - A subsystem of the Federal Wage System used to determine the employee's pay in a particular wage area. The determination requires comparing the rate of pay with the private sector for similar duties and responsibilities.

**Probationary Period** - A trial period that is a condition of the initial competitive appointment. Provides the final indispensable test of ability, which is actual performance on the job.

**Promotion** - A change of an employee to a higher grade when both the old and new positions are under the same job classification system and pay schedule or to a position with higher pay in a different job classification system and pay schedule.

**Promotion, Career** - Promotion of an employee without current competition when (1) he/she had earlier been competitively selected from a register or under competitive promotion procedures for an assignment intended as a matter of record to be preparation for the position being filled or (2) the position is reconstituted at a higher grade because of additional duties and responsibilities.

**Promotion, Competitive** - Selection of a current or former Federal Civil Service employee for a higher-grade position using procedures that compare the candidates on merit.

**Promotion Certificate** - A list of best-qualified candidates to be considered to fill a position under merit promotion procedures.

**Qualification Requirements** - Education, experience and other prerequisites to employment or placement in a position.

**Qualification Standards for General Schedule Positions** - The official NGB qualification standards manual for General Schedule and Wage System positions.

**Quality Step Increase (QSI)** - An additional within-grade increase granted to General Schedule employees for high-quality performance above that ordinarily found in the type of position concerned.

**Reassignment** - The change of an employee while serving continuously within the same Agency from one position to another without promotion or demotion.

**Recognition** - Employer acceptance of a labor organization as exclusive representative of all members of a bargaining unit.

**Recruitment** - Process of attracting a supply of qualified eligible for employment consideration.

**Reduction-in-Force (RIF)** - A personnel action that may be required due to lack of work, lack of funds, changes resulting from reorganization, downward reclassification of a position or the need to accommodate an employee with reemployment or restoration rights. Involves removing an employee from his/her position, but does not necessarily result in employment termination or even a reduction in grade.

**Reemployment Priority List** - Employees separated by reduction-in-force who are identified in priority order for employment to competitive positions in the commuting area where the separations occurred.

**Reemployment Rights** - Rights of an employee to return to an Agency after detail, transfer or appointment to (1) another Executive Agency during an emergency, (2) an international organization or (3) other statutorily covered employment (i.e., Active Military Duty).

**Register** - A list of eligible applicants compiled in the order of their relative standing for referral to Federal jobs after competitive civil service examination.

**Reinstatement** - Noncompetitive reemployment in the competitive service based on previous service under a career or career-conditional appointment.

**Removal** - Separation of an employee for cause or unacceptable performance.

**Representational Election** - Election conducted to determine whether the employees in an appropriate unit desire a labor organization to act as their exclusive representative.

**Reprimand** - An employee disciplinary action that is normally in writing and placed in the temporary side of an employee's OPF.

**Resignation** - A separation prior to retirement in response to an employee's request for the action. It is a voluntary expression of the employee's desire to leave the organization and must not be demanded as an alternative to some other action to be taken or withheld.

**Restoration Rights** - Right of employees who enter military service or sustain a compensable job-related injury or disability to be placed in the same or comparable employment status held prior to their absence.

**Retention Preference** - The relative standing of employees competing in a reduction-in-force. Standing is determined by performance appraisal, tenure group and length of service.

**Retention Register** - A list of all employees arranged by competitive level describing their retention preference during reduction-in-force.

**Retirement** - Payment of an annuity under either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) after separation from either a CSRS or FERS position based on the employee meeting age and length-of-service requirements. The types of retirement are:

- **Deferred** - Under both systems, an employee who has five years civilian service and separates or transfers to a position not under the Retirement Act may receive an annuity at age 62 if he/she does not withdraw from the retirement fund.
- **Disability** - An immediate annuity paid to an employee who has completed either five years of civilian service under CSRS or 18 months of civilian service under FERS. Employee must be unable to render useful and efficient service in his/her position because of disease or injury.
- **Discontinued Service** - Under both retirement systems, an immediate annuity paid to an employee who is involuntarily separated, through no personal fault of the employee, after age 50 and 20 years of service or at any age with 25 years of service. This annuity is reduced by 1/6 of one percent for each full month under age 55 (two percent per year).
- **Optional** - The minimum combinations of age and service for this kind of immediate annuity are:

CSRS: Age 62 with five years of service.  
Age 60 with 20 years of service.  
Age 55 with 30 years of service.

FERS: Age 62 with five years of service.  
Age 60 with 20 years of service.  
Minimum retirement age (MRA) and 30 years of service.  
The MRA is dependent upon the employee's date of birth.

**Review, Classification** - An official written request for reclassification of a position. Previously called a classification appeal.

**Selecting Official** - A person having power by law or lawfully delegated authority to make appointments.

**Special Salary Rates** - Salary rates higher than regular statutory schedule, established for occupations in which private enterprise pays substantially more than the regular Federal pay schedule.

**Staffing** - Using recruitment, appointment, reassignment, promotion, reduction-in-force, etc., to provide the workforce required to fulfill the Agency's mission.

**Steward (Union Official)** - A local union's representative in an organizational unit, appointed by the union to carry out union duties, adjust grievances, collect dues and solicit new members.

**Strike** - Temporary stoppage of work by a group of employees to express a grievance, enforce a demand for changes in conditions of employment, obtain recognition or resolve a dispute with management. Wildcat strike: a strike not sanctioned by the union and which may violate a collective agreement. Quickie strike: a spontaneous or unannounced strike of short duration. Slowdown: a deliberate reduction of output without an actual strike in order to force concessions from an employer. Walkout: same as a strike.  
**Strikes are illegal for Federal employees.**

**Suitability** - An applicant's or employee's fitness for Federal employment as indicated by character and conduct.

**Supervisor** - A person employed by an Agency who has authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline or remove employees and to adjust their grievances or to effectively recommend such action if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

**Suspension** - Placing an employee for disciplinary reasons in a temporary status without duties and pay.

**Tenure** - The time an employee may reasonably expect to serve under a current appointment. It is governed by the type of appointment without regard to whether the employee has competitive status.

**Tenure Groups** - Categories of employees ranked in priority order for retention during reduction-in-force.

- For the competitive service the tenure groups are in descending order:
  - Group I - Employees under career appointments and not serving probation.
  - Group II - Employee serving probation and career employees in obligated positions.
  - Group III - Employees with indefinite appointments and status quo employees under any other non-status, non-temporary appointment.
- For the excepted service, in descending order:
  - Group I - Permanent employees not serving a trial period whose appointments carry no restriction or condition, such as "indefinite" or "time limited."
  - Group II - Employees serving trial periods, those whose tenure is indefinite because they occupy obligated positions and those whose tenure is equivalent to career-conditional in the competitive service.
  - Group III - Employees whose tenure is indefinite, but potentially permanent.

**Time-in-Grade Restriction** - A requirement intended to prevent excessively rapid promotions in the General Schedule. Generally, an employee may not be promoted more than two grades within one year to a position up to GS-5. At the GS-5 and above an employee must serve a minimum of one year in grade and cannot be promoted more than one grade or two grades if that is the normal progression.

**Tour of Duty** - The hours of a day (a daily tour of duty) and the day of an administrative workweek (weekly tour of duty) scheduled in advance and during which an employee is required to work regularly.

**Training** - Formal instruction or controlled and planned exposure to learning.

**Transfer** - A change of an employee without a break in service of one full workday from a position in one Agency to a position in another Agency.

**Transfer of Function** - For reduction-in-force, the transfer of a continuing function from one Agency or competitive area to another or when the competitive area in which work is performed is moved to another commuting area.

**Unfair Labor Practice (ULP)** - An action prohibited by the Federal Labor Relations Statute. The statute contains prohibitions for both Agency management and labor organizations.

**Wage Employees** - Those employees in trades, crafts or labor occupations covered by the Federal Wage System and whose pay is fixed and adjusted periodically in accordance with prevailing rates.

**Within-Range Increase (Reg WRI)** - A salary increase provided in certain Government pay plans based upon time-in-grade and acceptable or satisfactory work performance. Also known as "periodic increase" or "step increase."

**Work Folder** – Employee record kept by the immediate supervisor containing emergency locator information, personnel data, performance related documentation, counseling records, awards, copies of recent personnel actions, performance standards, copies of OWCP documentation and the employees official position description.

## **TECHNICIAN ACT OF 1968 – (codified in 32 U.S.C. § 709)**

### **Policy**

The following Public Law forms the basis of the technician personnel system we have today. This may be read as a historical document, which has been codified and modified by 32 U.S.C. § 709.

### **Supervisor's Role**

You should be aware of provisions of the National Guard Technicians Act of 1968 to emphasize and explain the historical significance of Technicians as a unique class of Federal employees.

### **Public Law (PL) 90-486**

### **NATIONAL GUARD TECHNICIANS ACT OF 1968**

**Date: 13 AUGUST 1968**

***An Act to clarify the status of National Guard technicians, and for other purposes.***

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That:

This Act may be cited as the "National Guard Technicians Act of 1968."

Sec. 2. Title 32, United States Code, (*footnote 1*) is amended as follows:

(1) Section 709 is amended to read as follows:

"709. Technicians: employment, use, status"

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject [PAGE 870] to subsection

(b) of this section persons may be employed as technicians in –

"(1) the administration and training of the National Guard; and

"(2) the maintenance and repair of supplies issued to the National Guard or the armed forces.

"(b) Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed, be a member of the National Guard and hold the military grade specified by the Secretary concerned for that position.

"(c) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title, to employ and administer the technicians authorized by this section.

"(d) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed therein is required under subsection (b) to be a member of the National Guard.

"(e) Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned –

"(1) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who is separated from the National Guard or ceases to hold the military grade specified for his position by the Secretary concerned shall be promptly separated from his technician employment by The Adjutant General of the jurisdiction concerned;

"(2) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who fails to meet the military security standards established by the Secretary concerned for a member of a reserve component of the armed force under his jurisdiction may be separated from his employment as a technician and concurrently discharged from the National Guard by The Adjutant General of the jurisdiction concerned;

"(3) a technician may, at any time, be separated from his technician employment for cause by The Adjutant General of the jurisdiction concerned;

"(4) a reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by The Adjutant General of the jurisdiction concerned;

"(5) a right of appeal which may exist with respect to clause (1), (2), (3), or (4) shall not extend beyond The Adjutant General of the jurisdiction concerned; and

"(6) a technician shall be notified in writing of the termination of his employment as a technician and such notification [PAGE 871] shall be given at least thirty days prior to the termination date of such employment.

"(f) Sections 2108, 3502, 7511, and 7512 of Title 5, United States Code, do not apply to any person employed under this section.

"(g)(1) Notwithstanding sections 5544(a) and 6102 of Title 5, United States Code, or any other provision of law, the Secretary concerned may, in the case of technicians assigned to perform operational duties at air defense sites –

"(A) prescribe the hours of duties;

"(B) fix the rates of basic compensation; and

"(C) fix the rates of additional compensation; to reflect unusual tours of duty, irregular additional duty, and work on days that are ordinarily nonworkdays. Additional compensation under this subsection may be fixed on an annual basis and is determined as an appropriate percentage, not in excess of 12 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 of the General Schedule under section 5332 of Title 5, United States Code.

"(2) Notwithstanding sections 5544(a) and 6102 of Title 5, United States Code, or any other provision of law, the Secretary concerned may, for technicians other than those described in clause (1) of this subsection, prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of Title 5, United States Code, or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

"(h) In no event shall the number of technicians employed under this section at any one time exceed 42,500."

(2) The analysis of chapter 7 is amended by striking out the following item:

"709. Caretakers and clerks." and inserting in place thereof the following item:

"709. Technicians: employment, use, status."

(3) Section 715(a) (*footnote 2*) is amended by striking out "caused by a person employed under section 709 of this title acting within the scope of his employment;" Sec. 3.

(a) A claim accrued under section 715 of title 32, United States Code, before the effective date of this Act by reason of the act or omission of a person employed under section 709 of title 32, United States Code, may, if otherwise allowable, be settled and paid under section 715 of title 32, United States Code.

(b) Except as provided in this Act and in the amendments made by this Act, and notwithstanding any law, rule, regulation, or decision to the contrary, the positions of persons employed under section 709 of title 32, United States Code, existing on the day before the effective date of this Act, and the persons holding those positions on [PAGE 872] that day, shall, on and after that effective date, be considered to be positions in and employees of the Department of the Army or the Department of the Air Force, as the case may be, and employees of the United States to the same extent as other Positions in and employees of the Department of the Army or the Department of the Air Force. Such positions shall be outside the competitive service, if, as a condition of employment, the persons employed therein were, on the day before the effective date of this Act, required to be members of the Army National Guard or the Air National Guard.

(c) All service under section 709 of title 32, United States Code, or prior corresponding provision of law, performed before the effective date of this Act shall be included and credited in the determination of length of service for the purposes of leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure, and status. This subsection shall apply only in the case of persons who perform service under section 709 of title 32, United States Code, on or after the effective date of this Act.

(d) Annual leave and sick leave to which a technician was entitled on the day before the conversion of his position, as provided in subsection (b) of this section, shall be credited to him in his new position. Sec. 4. Section 2105(a) of Title 5, United States Code, (*footnote 3*) is amended –

(1) by striking out "or" at the end of clause (1)(D);

(2) by adding "or" at the end of clause (1)(E); and

(3) by adding the following new sub clause (F) at the end of clause (1) : "(F) the adjutants general designated by the Secretary concerned under section 709(c) of title 32, United States Code;". Sec. 5. (a) Section 8332(b) of Title 5, United States Code, (*footnote 4*) is amended –

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in place thereof "; and"; and

(3) by adding the following new clause: "(6) employment under section 709 of title 32, United States Code or any prior corresponding provision of law."; and

(4) by adding at the end thereof the following: "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968."

(b) Section 8334 (c) of Title 5, United States Code, (*footnote 5*) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332(b)(6) which was performed [PAGE 873] prior to the effective date of the National Guard Technicians Act of 1968 shall be an amount equal to 55 per centum of a deposit computed in accordance with such provisions."

(c) Section 8339 of Title 5, United States Code, (*footnote 6*) is amended by adding at the end thereof the following new subsection: "

(1) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b) (6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded."

(d) Clause (4) of subsection (a) of this section and subsections (b) and (e) of this section do not apply to any person employed prior to the effective date of this Act under section 709 of title 32, United States Code, whose employment under that section was covered by subchapter III of chapter 83 of Title 5, United States Code.

Sec. 6. (a) Notwithstanding section 709(d) of title 32, United States Code, a person who, on the date of enactment of this Act, is employed under section 709 of title 32, United States Code, and is covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, may elect, not later than the effective date of this Act, not to be covered by subchapter III of chapter 83 of Title 5, United States Code, and with the consent of the State concerned or Commonwealth of Puerto Rico, to remain covered by the employee retirement system of, or plan sponsored by, that State or the Commonwealth of Puerto Rico. Unless such an election, together with a statement of approval by the State concerned or the Commonwealth of Puerto Rico, is filed with the Secretary of the Army or the Secretary of the Air Force, as appropriate, on or before the effective date of this Act, the person concerned is covered

by subchapter III of chapter 83 of Title 5, United States Code, as of that date. (b) A member of the National Guard of a State or the Commonwealth of Puerto Rico who was employed as a technician under section 709 of title 32, United States Code, or prior corresponding provision of law, who –

(1) was involuntarily ordered to active duty after January 1, 1968, from that employment and has not been released from that duty prior to the effective date of this Act; or

(2) is on active duty under section 265, 3015, 3033, 3496, 8033 or 8496 of title 10, United States Code, on the effective date of this Act;

and was covered by a retirement system or plan of a State or the Commonwealth of Puerto Rico, may, if he is reemployed within sixty days under section 709 of title 32, United States Code, make the election described in subsection (a) of this section, within thirty days following the date of his reemployment.

(c) In the case of any person who files a valid election under this section to remain covered by an employee retirement system of, or [PAGE 874] plan sponsored by, a State or the Commonwealth of Puerto Rico, the United States may pay the amount of the employer's contributions to that system or plan that become due for periods beginning on or after the effective date of this Act. However, the payment by the United States, including any contribution that may be made by the United States toward the employer's tax imposed by section 3111 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 3111), may not exceed the amount which the employing Agency would otherwise contribute on behalf of the person to the Civil Service Retirement and Disability Fund under section 8334(a) of Title 5, United States Code.

Notwithstanding section 8332(b) of Title 5, United States Code, as amended by section 5 of this Act, the service under section 709 of title 32, United States Code, or prior corresponding provision of law, of a person who has made an election to remain covered by the employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall not be creditable toward eligibility for or amount of annuity under subchapter III of chapter 83 of Title 5, United States Code. A person who retires pursuant to his valid election shall not be eligible for any rights, benefits or privileges to which retired civilian employees of the United States may be entitled.

Sec. 7. The fourth sentence of section 218(b)(5) of the Social Security Act, as amended (42 U.S.C. 418(b)(5)), (*footnote 7*) is amended to read as follows: "Persons employed under section 709 of title 32, United States Code, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this Act, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group."

Sec. 8. (a) Except as provided in section 709(g) of title 32, United States Code, the Secretary concerned shall fix the rate of basic compensation of positions existing on the date of enactment of this Act in accordance with the General Schedule set forth in section 5332, or under the appropriate prevailing rate schedule in accordance with section 5341 of Title 5, United States Code, as applicable. In fixing such rate –

(1) If the technician is receiving a rate of basic compensation which is less than the minimum rate of the appropriate grade of the General Schedule, or which is less than the minimum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, his basic compensation shall be increased to that minimum rate.

(2) If the technician is receiving a rate of basic compensation which is equal to a rate of the appropriate grade of the General Schedule, or which is equal to a rate of the appropriate grade or [PAGE 875] compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at that rate of the General Schedule, or at that rate under the prevailing rate schedule, as applicable.

(3) If the technician is receiving a rate of basic compensation which is between two rates of the appropriate grade of the General Schedule, or which is between two rates of the appropriate grade or compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at the higher of those two rates under the General Schedule or appropriate prevailing rate schedule, as applicable.

(4) If the technician is receiving a rate of basic compensation which is in excess of the maximum rate of the appropriate grade of the General Schedule, or which is in excess of the maximum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall continue to receive basic compensation without change in rate until –

(A) he leaves that position, or

(B) he is entitled to receive basic compensation at a higher rate, but, when any such position becomes vacant, the rate of basic compensation of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(b) The conversion of positions and employees to appropriate grades of the General Schedule set forth in section 5332 of Title 5, United States Code, and the initial adjustment of rates of basic compensation of those positions and technicians, provided for by this Act, shall not be considered to be transfers or promotions within the meaning of section 5334(b) of Title 5, United States Code, and the regulations issued there under.

(e) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of Title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, who prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section, has earned, but has not been credited with, an increase in that rate, shall be granted credit for such increase before his rate of basic compensation is initially adjusted under that subsection. (d) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of Title 5 United States Code, or to the appropriate prevailing rate schedule, as applicable, shall be granted credit, for purposes of his first step increase under the General Schedule or prevailing rate schedule, for all satisfactory service performed by him since his last increase in compensation prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section. [PAGE 876]

(e) An increase in rate of basic compensation by reason of the enactment of subsection (a) of this section shall not be considered to be an equivalent increase with respect to step increases for technicians whose positions are converted to the General Schedule set forth in section 5332 of Title 5, United States Code, or the appropriate prevailing rate schedule under authority of this section. Sec. 9. Title 10, United States Code, is amended as follows:

(1) Sections 3848(c) (*footnote 8*) and 3851(c) (*footnote 9*) are each amended to read as follows: "(c) Notwithstanding subsections (a) and (b) of this section, the Secretary of the Army may authorize the retention in an active status until age 60 of any officer of the Army National Guard of the United States who would otherwise be removed from an active status under this section and who - "(1) is assigned to a headquarters or headquarters detachment of a State or territory, the Commonwealth of Puerto Rico, the Canal Zone, or the District of Columbia; or

"(2) is employed as a technician under section 709 of title 32, United States Code, in a position for which Army National Guard membership is prescribed by the Secretary."

(2) Sections 8848 (*footnote 10*) and 8851 (*footnote 11*) are each amended by adding the following new subsection:

"(c) Notwithstanding subsections (a) and (b) of this section, the Secretary of the Air Force may authorize the retention in an active status until age 60 of any officer of the Air National Guard of the United States who would otherwise be removed from an active status under this section and who is employed as a technician under section 709 of title 32, United States Code, in a position for which Air National Guard membership is prescribed by the Secretary."

Sec. 10. Regulations prescribed by the Secretary of the Army and Secretary of the Air Force under this Act shall be approved by the Secretary of Defense and shall, so far as practicable, be uniform.

Sec. 11. This Act becomes effective January 1, 1969, except that no deductions or withholding from salary which result there from shall commence before the first day of the first pay period that begins on or after January 1, 1969. Approved August 13, 1968. [PAGE 877]

#### FOOTNOTES

Footnote 1 32 U.S.C.A. 709.

Footnote 2 32 U.S.C.A. 715(a).

Footnote 3 5 U.S.C.A. 2105(a).

Footnote 4 5 U.S.C.A. 8332(b).

Footnote 5 5 U.S.C.A. 8334(c).

Footnote 6 5 U.S.C.A. 8339(1).

Footnote 7 42 U.S.C.A. 1418(b)(5).

Footnote 8 10 U.S.C.A. 3848(c).

Footnote 9 10 U.S.C.A. 3851(c).

Footnote 10 10 U.S.C.A. 8848(c).

Footnote 11 10 U.S.C.A. 8851(c).